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## Senate

The Senate met at 11 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

### REVISED NOTICE—NOVEMBER 17, 1999

If the 106th Congress, 1st Session, adjourns sine die on or before November 18, 1999, a final issue of the Congressional Record for the 106th Congress, 1st Session, will be published on December 3, 1999, in order to permit Members to revise and extend their remarks.

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By order of the Joint Committee on Printing.

WILLIAM M. THOMAS, *Chairman*.

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MICHAEL F. DiMARIO, *Public Printer*.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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## PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, the only source of lasting authentic courage, we thank You that You use ordinary people to do extraordinary things. This morning, we turn to the psalmist and to Jesus for the bracing truth about courage to see things through, not just to the end of the Senate session but to the accomplishment of Your ends. David reminds us: "Be of good courage, and He shall strengthen your heart, all you who hope in the Lord"—Psalm 31:24. And Jesus challenges us to take courage (John 16:33). We know that we can take courage to press on because You have taken hold of us. You have called us to serve You because You have chosen to get Your work done through us. So bless the Senators as they confront the issues of the budget, consider creative compromises, and seek to bring this Senate session to a conclusion. In this quiet moment, may they take courage and press on. Through our Lord and Savior. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable JAMES INHOFE, a Senator from the State of Oklahoma, led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE ACTING  
MAJORITY LEADER

The PRESIDING OFFICER (Mr. INHOFE) The Senator from Ohio.

## SCHEDULE

Mr. VOINOVICH. Mr. President, today the Senate will be in a period of morning business until 12 noon, with Senator VOINOVICH in control of the first 30 minutes and Senator DURBIN in control of the second 30 minutes.

For the information of all Senators, the final appropriations items were filed last night and are expected to be considered in the House throughout the day. Therefore, following morning business, it is expected that the Senate will begin consideration of the final appropriations items as they are received. Members will be notified as the schedule for consideration becomes clearer. The Senate may also consider any legislative or executive items cleared for action during today's session.

I thank my colleagues for their attention.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The assistant minority leader.

## BANKRUPTCY REFORM

Mr. REID. Mr. President, I appreciate the Senator outlining for us what the intent is for the day. I hope that part

of what we are going to do is to work on completing the bankruptcy bill. I say to my friends in the majority that we only have a few amendments remaining. I have spoken to Senator LEAHY and his staff, and I am ready to offer a unanimous-consent request. I will not ask that the Senator accept this, recognizing that he must speak with the manager of the bill, Senator GRASSLEY. But what I would like to do is ask unanimous consent that the following amendments numbered 2517, 2537, 2538, 2539, 2658, 2666, 2667, 2747, 2748, 2753, 2759, 2761, 2763, and 2670, and any amendment agreed upon by the two managers be the only amendments—those I have just read and those agreed to by the two managers—in order to S. 625, the bill to amend title 11, United States Code, and for other purposes, and that following the disposition of all the above-described amendments, the bill be immediately advanced to third reading; that the Senate then proceed to the House companion bill, H.R. 833; that all after the enacting clause be stricken, the text of the Senate bill, as amended, be inserted; that the bill be advanced to third reading; that a vote occur on passage of the bill without any intervening action, motion or debate; that the Senate insist on its amendments, request a conference with the House, and the Senate bill be placed back on the calendar.

Mr. President, that is the unanimous-consent request that I spread across the RECORD of the Senate, recognizing that at this time there will not be an objection to it. We will make this unanimous-consent request at some later time.

The PRESIDING OFFICER. Is there objection?

Mr. REID. I am not asking, Mr. President, that there be objection. I am not asking unanimous consent at this time.

I say to the majority that we have enumerated 14 amendments. Seven of them have tentatively been agreed upon or they will be withdrawn. Only seven amendments are now between completing the bankruptcy bill and not completing it this year. The only two amendments of the seven that I understand are causing any controversy are the ones dealing with gun manufacturers and clinic violence.

On the gun manufacturing amendment, the proponents have agreed to a 70-minute time agreement, and on the amendment relating to clinic violence, the proponent has agreed to 30 minutes. So there is really not much left to complete this bill. I hope that during the day there can be discussions ongoing to complete this bill. We would be willing at any time the majority wants to lock in these amendments; we would be willing to come back and I would propound this unanimous consent request, or we could have the majority do so, so that this bill could be completed in a reasonably short period of time.

## RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

## MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12 noon, with Senators permitted to speak therein up to 5 minutes.

Under the previous order, the time until 11:30 shall be under the control of the Senator from Ohio, Mr. VOINOVICH, or his designee.

## ORDER OF PROCEDURE

Mr. NICKLES. Mr. President, my colleague from Nevada spent several minutes outlining a unanimous consent. It was on the time of the Senator from Ohio. I wonder if we might accommodate that.

Mr. REID. Absolutely.

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senator from Ohio have charge of the time until 11:35 and then the remainder of the time under the charge of the designee of the minority leader.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The PRESIDING OFFICER. The Senator from Ohio.

THE STATE OF AFFAIRS IN THE  
BALKANS

Mr. VOINOVICH. Mr. President, as the first session of the 106th Congress comes to a close, I want to remind my colleagues that the aftermath of our nation's largest foreign policy initiative this year and a 78-day air war, will be our nation's biggest foreign policy concern next year.

As my colleagues are aware, I opposed our nation's "sign or we'll bomb" diplomacy that ultimately led to the decision to conduct the air war over Kosovo and Serbia earlier this year. Instead, I believed that we should have done all that we could to negotiate a real diplomatic solution. Nevertheless, at the conclusion of the conflict, I came to the Senate floor and commented that "some good always blows in an ill wind."

The "good" that I saw in the ill wind of the bombing campaign was the opportunity for NATO and the United States to provide the impetus for a lasting peace throughout Southeastern Europe. Since that time, my staff and I have spent hours working hard to ensure that some good does blow in and that we do not lose this opportunity to promote peace, stability and prosperity in that region of our world.

To ensure the future of Southeast Europe, it is important to understand its past. Every student of history is well aware that this century's two

most horrific wars had deep roots in the Balkans, but few people are aware of the level of violence, bloodshed, hatred and destruction that has been commonplace in the region for centuries. Indeed, the Balkans have been the site of numerous wars and countless battles, and have been fought over by every major regional power since the days of the Roman legions.

Over the last 10 years, regional ethnic tensions have resulted in yet another nightmare for the people of the Balkans. And for the third time this century, Europe, reluctantly, has turned its attention to their southern neighbors.

Their concern can be attributed to self-interest; an attempt to get Southeast Europe to settle down so as to avoid any possible spillover that could bring unrest to their nations, and a genuine concern over the ethnic cleansing and human rights violations in the region. To do this, Europe has involved the international community, and in particular, the United States, which, for the first time in our history, has immersed itself politically and militarily in the region.

Our willingness to get involved and lead should have come earlier. Indeed, when conflicts began in Bosnia in the early 1990's, it was reported that a key foreign policy official of the Bush Administration made the statement that "we have no dog in this fight." History records that nothing could have been further from the truth. According to Ambassador Richard Holbrooke in his book, "To End A War":

Europe believed it could solve Yugoslavia without the United States; Washington believed that, with the Cold War over, it could leave Yugoslavia to Europe. Europe's hour had not dawned in Yugoslavia; Washington had a dog in this particular fight.

The overconfidence of Europe and the disengagement of the United States contributed greatly to the tragedy of Slavonia, Krijna and Bosnia-Herzegovina. When we finally realized it was important for the U.S. to get involved, we dealt with, and thus, legitimized three war criminals—Slobodan Milosevic, Franco Tudjman and Alija Izetbegovic—at the Dayton Peace Accords.

Unfortunately, the legitimization of Milosevic caused us to continue to have a relationship with him at a time when we should have been working with opposition leaders to get rid of him. Then, when he showed his true colors, we were reluctant to be as aggressive as we should have been. We misjudged him, we underestimated him, and now we're paying the price for our mistake.

As a result, we have spent at least \$18 billion in operations in Bosnia and Herzegovina, Kosovo, Serbia and elsewhere. We will, no doubt, spend billions more. In addition, we have placed a tremendous strain on the equipment and personnel of our Armed Forces due to our past and present involvement in peacekeeping missions in Southeast

Europe. Also, the State Department has paid an incredible amount of attention to the Balkans. And finally, we have complicated our relations with other nations on the international scene—primarily, Russia and China.

A November 1 article written by Elizabeth Sullivan, foreign-affairs correspondent for the Cleveland Plain Dealer, indicates that the Russians harbor resentment and incredulity towards the United States over our assuming an air of moral superiority regarding their actions in Chechnya. They see our attitude as a double standard, which affects our ability to appeal to their better instincts. She writes:

The Kremlin is resolutely turning a deaf ear to U.S. admonitions for restraint in Chechnya. The criticisms have inflamed anti-U.S. feelings in Russia where it's bitterly recalled that NATO's unpopular bombing killed hundreds of Yugoslav civilians. It is the first big display of lost U.S. influence after Kosovo.

It is clear that instability in Southeast Europe has the potential to threaten America's overall interests throughout the rest of Europe. However, a full-fledged integration of Southeast Europe into the whole European community would remove the burden and expense of maintaining a constant peacekeeping force, end years of diplomatic wrangling and political posturing, and more important, end the death and destruction that has plagued the region.

Recently, I met with a number of Ambassadors from the Balkans region in the LBJ room here in the Capitol. They made it very clear to me that they are ready to work together. I was pleased that they realized they have a symbiotic relationship—a relationship that must be cultivated in order to bring about peace and implement a modern, free-market economy. The Holy Spirit was definitely present in that room. There was an aura of enlightenment among those leaders, and we must capitalize on the momentum of this cooperative spirit if we are to successfully bring the region into the broader European fold.

Consider that not so many years ago, no one would have thought that European political and economic cooperation, let alone union, was possible. After all, two world wars had been fought in the trenches and on the fields of Europe, fostering tremendous ill-will among many nationalities.

Today, those feelings have largely dissipated. Germans, French, Italians—all share the same currency. They cross national boundaries freely. They work cooperatively to solve economic problems because it is in their collective best interest. We are seeing that in terms of competition right now. The Ambassadors I met with see this cooperation and wish it for their nations, but, they are also quite frustrated with the lack of speed by the international community in responding to the humanitarian and economic needs of the region.

The NATO air war triggered immense human suffering which has not yet been fully remedied. Here are some facts:

The refugee exodus from Kosovo decimated the economies of surrounding nations, especially in Macedonia. Macedonia's reaching out to help their fellow man was done at a great sacrifice to their economy and the quality of life of their people.

In the Federal Republic of Yugoslavia (FRY), there are still 500,000 refugees from Slavonia, Krijna, and Bosnia. Another 150,000 were displaced during the Kosovo bombing.

In Kosovo, the international community has had to deal with 700,000 refugees who have returned after the conflict. 500,000 of these refugees are still officially considered "internally displaced persons," without any place to call their own.

Kosovo has turned into an armed camp where soldiers from numerous countries are forced to keep the peace and prevent further bloodshed.

The lack of an effective internal police force has led to virtual chaos, where organized crime and illegal drug trafficking is said to be rampant and a cause of great concern among its citizens.

On this last point, a senior official from the Organization for Security and Cooperation in Europe, OSCE, told me that the reason there is no effective police force in Kosovo is because there aren't enough qualified or even interested individuals willing to join the force. The official told me that if the crime problem in Kosovo isn't checked, it will spread to the entire region and into the rest of Europe.

Indeed, this point was illustrated again in the November 1 Elizabeth Sullivan article for the Cleveland Plain Dealer. She wrote:

The scope of the gun, drug and prostitute trade fanned by the Kosovo conflict is also becoming clear. [Last week] Italian and Swiss police busted a ring that allegedly smuggled millions of dollars in Swiss weapons to Kosovo, and Albanian prostitutes out to Italy, using humanitarian aid as a cover.

The growing crime problem was definitely a topic of concern for the Ambassadors I met with. I was amazed that they considered organized crime and drugs their No. 1 or No. 2 concern to be addressed. Think of that, organized crime and drugs as their No. 1 or No. 2 concern in the region.

The fact of the matter is, the bombing has had a terribly destabilizing effect on the region, and a very real impact on the humanitarian situation and basic human existence as well, one that has not been widely reported to the American people. The T.V. cameras are gone now. You know how it is: out of sight, out of mind, and we have moved on to other issues.

Although it's hard to grasp the extent of the problem, for the last several months, the U.S. has been working through the United Nations and the International Committee for the Red

Cross to deal with the needs of the region. Both the UN and the Red Cross claim that they will be able to keep people fed, clothed and sheltered through the upcoming winter. Yet, I have received a number of credible reports in recent weeks which indicate that in fact we will witness a humanitarian catastrophe in the region in the months ahead because of a lack of shelter, heat, food and medical care.

I am aware that there are individuals in the foreign policy community who are opposed to providing significant assistance to the people of Serbia. They believe that humanitarian suffering will lead to political discontent which will, in turn, lead to a popular movement that will bring about the removal of Slobodan Milosevic. I disagree.

With the exception of South Africa, crippling sanctions have not successfully brought about a change in political leadership. Just look at Saddam Hussein in Iraq. We don't know what is going on there anymore.

To emphasize this point, Professor Julie Mertus of the Ohio Northern University wrote an excellent piece which was recently published in the Washington Post. Professor Mertus specializes in international law. Here is what she has to say:

How does a freezing and hungry Yugoslavia advance U.S. policy goals? Certainly Milosevic will not be hungry this winter. The idea is that the pain and suffering among the lowest strata of society will "trickle up" to the higher echelons. Protests by discontented citizens will lead to policy changes and perhaps even the removal of Milosevic. The problem is that humans do not behave this way. Cold, dispirited citizens do not take to the streets. Rather, they draw up inside their own homes and try to survive. If the going gets tough, they try to exit, often leaving the country. Only the few with hope continue to fight, and even they cannot persist for long when they are isolated from supportive networks.

Our sanctions policy has allowed Milosevic to blame Serbia's faltering economy, declining humanitarian situation and international isolation on the West. He has been able to deflect the ire of the Serbian people who have little access to independent media.

We must pursue specific courses of action that will help us get rid of Milosevic once and for all.

No. 1, we must continue to squeeze Milosevic so that his allies inside and outside the Serbian government will see that he is vulnerable and his hold on power is tenuous. Milosevic is an indicted war criminal, and we have to make his allies understand that his fate is their fate. In other words, leave now, or pay later.

No. 2, we should work with our allies to announce a detailed humanitarian and economic aid package that would be available to the people of Serbia once Milosevic is removed. The importance of this kind of package to the success of democratization was underscored recently when several of us met with the leaders of the anti-Milosevic force right here in the Capitol.

They talked about how important it was we have a clear, defined package that says, if he goes, here is what we are willing to do.

No. 3, we should provide as much assistance as we can, including such things as heating oil, food, clothing and direct financial assistance, as soon as possible to the Serbian opposition groups, particularly the mayors, who are struggling to bring about democratic change.

No. 4, we should continue to support President Djukanovic of Montenegro with whom I met two weeks ago. He is a bright and energetic leader and a key ally for peace and prosperity in Southeast Europe.

No. 5, we must undertake a massive effort to overrun Milosevic's monopoly control on Serbia's mass media. Milosevic's distorted information must be countered with the truth; a commodity we must get to the Serb people whatever way possible.

As I mentioned earlier, I held a meeting recently with a number of ambassadors and senior embassy staff from the nations of Southeast Europe to get their reaction to the Stability Pact initiative. And they were honest; they said things were not going well. They were very clear that it was essential that the United States be at the table to provide leadership and contribute our fair share.

Without our presence, they are not confident that our NATO allies will make good on the promises they made at the end of the war. And, quite frankly, I think it is up to us to make it clear to our European allies that we expect them to adhere to their commitment.

We are going to be at the table. We are going to have leadership. We are anteing up, and it is time for you to ante up and make good on your promises.

The best way I can summarize the attitude at the meeting I had with the ambassadors, and the meeting I had with the Serbian opposition leaders is a word in Serbo-Croatian—"demo"—which means, "let's get going!"

On balance, I believe there has been some real progress made on a number of fronts in our policy towards Southeast Europe in recent months. The Stability Pact is moving ahead—albeit slowly and indeed need of some additional leadership, particularly ours. The policy toward sanctions seems to be finessed a bit and real work finally is being done on the ground in the region to deal with humanitarian concerns. I am pleased the administration is starting to soften up on this a little bit.

The administration is meeting with Serbian opposition leaders and financial support is beginning to trickle into the movement. Southeastern European nations are beginning to think regionally with the understanding they have a symbiotic relationship in their efforts to promote and develop their economies. That is wonderful.

Although in many respects, things are much better off today than they were after the war, the momentum has to be increased significantly, and that is the challenge of this Congress and this administration.

The administration, working through the State Department, bears the responsibility of bringing about real change in Serbia and honoring the commitments the United States has made to friendly governments in Southeast Europe. Congress has an obligation to provide oversight and support to the administration's policies towards the restoration of peace and stability in the region.

To that end, I look forward to working with my colleagues in the next session of Congress to loosen some of the restrictive language that was placed in the Foreign Operations appropriations bill, language that the State Department claims has made it difficult, and continues to make it difficult, for them to do the kinds of things they would like to be doing in Southeast Europe.

The Senate has already made a positive start with the recent unanimous passage of the Serbia Democratization Act. I believe we need to build on that progress.

Southeast Europe is strategic to our national interests and key to our efforts to maintain peace in the world. Until the nations of Southeast Europe are welcomed into the broader European community, those efforts will remain unfulfilled. The United States must provide the leadership because we do "have a dog in this fight."

I thank the Chair. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. VOINOVICH). Without objection, it is so ordered.

#### MILITARY STATE OF READINESS

Mr. INHOFE. Mr. President, I was presiding when the distinguished Senator from Ohio was talking about the problems the U.N. faces in Kosovo. I share all of the concerns the Senator from Ohio expressed. In addition to that, since I am the chairman of the Senate Armed Services Readiness Subcommittee, I have another concern, and that is the deployment of troops in 1995 into Bosnia, then again to Kosovo, and the way they are being deployed today has put us in an apparent condition in terms of our state of readiness.

It is very unfortunate that during this administration we have had a cut in our force strength by approximately 50 percent, only to find out just last week that two of our Army divisions are now rated at C-4. That means they are not capable of combat today. Those

two divisions are the 10th Army Division, of which most are located in Bosnia, and the 1st Infantry Division located in Kosovo.

This means that if something should happen, we are not in a ready condition to defend America, where we do have national security interests which, in my opinion, we do not have and never had in either Bosnia or Kosovo. I stood side by side with the Senator from Ohio in trying to keep us from making that deployment. We were not successful. I do believe we should be looking very soon at any way we can bring our troops back to a state of readiness, to do what we are supposed to be doing, the No. 1 function of Government, and that is to defend America.

#### VIEQUES

Mr. INHOFE. Mr. President, I have been a little disturbed not knowing the certainty of the schedule and how long we will have to get some things done at the last minute. I want to bring up one issue that has to be discussed briefly, and that is the issue of the range that has been used for 58 years on the island of Vieques located 6 miles off the shores of Puerto Rico.

I am concerned about this because we started using this range 58 years ago. We have become dependent upon it because it is the only range we can use that offers an integrated three-level type of training—first, high-altitude bombing; second, the type of protection that comes from the ships to the shore using live fire; and third, the Marine expeditionary amphibious movements. All three of those can be done simultaneously and have been done successfully over the last 58 years.

The problem we have with this range is that there is no place else in the Western Hemisphere that we can actually give the training to our troops. Right, now we have deployed into the Persian Gulf the U.S.S. *Kennedy*. Because this President put a moratorium on training in Vieques, only half of those deployed on the U.S.S. *Kennedy* have ever had the necessary training should they have to become involved in combat.

We have scheduled for the 18th of February the deployment of the U.S.S. *Eisenhower* Battle Group. If this battle group goes through the Mediterranean and goes to the Persian Gulf, the chances are better than 50-50 they will see combat. If we do not allow them to have the training on the island of Vieques prior to their deployment, they will have to go into combat very likely without ever having any live ordnance training. This goes for the pilots flying the F-18s and the F-14s that will be deployed off the U.S.S. *Eisenhower*.

I was there 3 weeks ago and watched them during their training, but they were unable to use live ordnances and use that range. It goes for the 24th Marine Expeditionary Unit and the others who would be deployed at the same time.

I would like to quote, if I could, Gen. Wes Clark. Of course, he is one for whom we all have a great deal of respect. We watched the way he worked commanding the European forces and the NATO forces. He said:

The live fire training that our forces were exposed to at training ranges such as Vieques helped ensure that the forces assigned to this theater—

We are talking about Kosovo, those 78, 79 days—

were ready-on-arrival and prepared to fight, win and survive.

What General Clark is saying is, we were successful. Even though we should not have been in Kosovo to start with, once we made that decision, we were successful in dropping our cruise missiles in there and our bombs because of the training those pilots had on the island of Vieques.

Capt. James Stark, Jr., the commanding officer of the Roosevelt Roads Naval Station, said:

When you steam off to battle you're either ready or you're not. If you're not, that means casualties. That means more POWs. That means less precision and longer campaigns. You pay a price for all this in war, and that price is blood.

We are talking about American blood. I am very proud of all the military, uniformed and others. This is the first time in the years I have served in the Senate that they have been willing to stand up for something they know is right, not knowing for sure where the President is going to be on this issue.

The President has imposed a moratorium on training on the island of Vieques. We are going to try our best to encourage him, for the lives of Americans, to allow us to use it to train those people who are on the U.S.S. *Eisenhower*, ready to be deployed.

Richard Danzig, the Secretary of the Navy, said:

Only by providing this preparation can we fairly ask our service members to put their lives at risk.

In a joint statement between the Chairman of the Joint Chiefs of Staff, the Chief of Naval Operations, and the Commandant of the Marine Corps, they said: Vieques provides integrated live-fire training "critical to our readiness," and the failure to provide for adequate live-fire training for our naval forces before deployment will place those forces at unacceptably high risk during deployment.

This is military language to mean casualties, those who can be killed in action.

I am proud of Admiral Johnson, the Chief of Naval Operations, and General Jones, the Commandant of the Marine Corps, when they say: Without the ability to train on Vieques, the U.S.S. *Eisenhower* Battle Group and the 24th Marine Expeditionary Unit scheduled for deployment in February 2000 would not be ready for such deployment "without greatly increasing the risk to those men and women who we ask to go in harm's way."

Lastly, Admiral Murphy, the Commander of the Sixth Fleet of the Navy, said: The loss of training on Vieques would "cost American lives."

It is a very serious thing. I sometimes listen to the complaints we hear from some of the Puerto Ricans, but mostly from the people of the island of Vieques, who say: Wait a minute. How would you like to have bombs dropped and live ordnances fired where you are?

You can't do anything about that. They actually have a 10-mile buffer range between the bombing range and where people live.

I happen to represent the State of Oklahoma. We have a very fine organization there called Fort Sill, where we do all our artillery training. I have said on the floor here several times before that, while on Vieques they have a 10-mile buffer zone, we have only a 1-mile buffer zone in the State of Oklahoma between a population of 100,000 people living in Lawton and the live-fire range.

So let me just wind up and conclude by saying that many of us, including Senator WARNER, the chairman of our Armed Services Committee, are asking the President and pleading with him to work out some type of arrangement to, at the very least during this interim while we are in recess, provide for training on the island of Vieques because if that does not happen, we will lose American lives.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. INHOFE). Without objection, it is so ordered.

Mr. DURBIN. Would the Chair be kind enough to tell me what the order of business is?

The PRESIDING OFFICER. We are in morning business until the hour of 12 o'clock and under the minority's time.

Mr. DURBIN. I understand that my colleague, Senator KENNEDY from Massachusetts, will be joining me on the floor shortly. I will certainly yield at that point.

#### VIDEO CAMERAS IN THE COCKPITS OF AIRCRAFT

Mr. DURBIN. Mr. President, I would like to address several topics that I think may be of interest to those who are following the debate in the Senate. One in particular has become a focal point of the news media across the United States and literally around the world. That was the crash of the EgyptAir aircraft just a few weeks ago and the loss of over 200 lives.

I find it interesting, as we try to piece together all the information to determine what happened in that aircraft disaster, how limited we are with

respect to investigative tools. We have the so-called black box which has the flight data information. We are poring through that to try to determine what was happening mechanically on that plane when it went down. Then we have the audio recording which is now the focus of all sorts of international speculation. We listen to that audio recording for sounds, for words, and then try to piece together this mystery to determine what happened in the cockpit of that plane which led to this loss of life.

This is more than just to satisfy curiosity. This investigation is being undertaken, as most are, to determine whether there is something we can or should do to change the way aircraft are maintained and flown to protect those who are passengers. These investigations are critically important. We often come up with information about a mechanical failure. We then set out to repair it. We decide that planes won't go back up in the air until that is taken care of. If there is human error—that will happen in most accidents—we at least get to the bottom of the equation and understand what is going on.

The thing I find absolutely incredible, in 1999, is that we are dealing with such primitive tools when it comes to investigating aircraft disasters. The idea of an audio recording in a cockpit goes back to the 1930s. That was the state of the art then. But today, technology is far more advanced and I would suggest that we need to update plane safety by putting a video camera in the new planes' cockpits so we can determine what is happening in a crash.

The obvious is not being used. If you walk into a bank, if you walk into most office buildings, a casino, a convenience store, or stand in front of an ATM machine, you will be on a video camera which will reflect your conduct and your activities. Think what a difference it would make today if there had been a video camera in the cockpit of the EgyptAir aircraft.

The obvious question is, Why haven't we done this? The technology is there. It is a question of will. It may be a question of legislation. That is why I have written not only to the head of the Federal Aviation Administration as well as the Department of Transportation and the National Transportation Safety Board, urging them to expedite this question about whether or not we can safely install a video camera in the cockpit of aircraft to make certain that if there is an accident, so that we have another tool available to determine the reason for the disaster. We wouldn't be involved in all this speculation with the people of Egypt about the utterance of a prayer and whether that meant this was a suicide mission or something far different if we had a videotape we could refer to. We could find out who was at the controls and what they did at those controls. We would have an obvious clear answer to the question.

As I went through this, I was amazed. I stopped and thought for a moment, why in the world are we still stuck with a tape recording of voices and sounds in the investigation of this aircraft disaster? I am urging my colleagues, those who feel as I do, to join me in this effort to make certain we bring the very best technology to the cockpits of aircraft, not only in the United States but those who serve the United States, so the day may come that if there is a disaster, we will have a final and complete answer, not just to satisfy curiosity but, even more important, to make sure passengers across the world can at least have some piece of mind knowing we have done everything we can to make airline safety our top and highest priority.

#### CLOSING DAYS OF THE SESSION

Mr. DURBIN. In the closing days of this session—it is interesting—we have spent almost a year debating 13 appropriations bills. Now we are trying to bring them to a close. We have some six or seven bills that will finally be lumped together in a huge package which literally no single Member of the Senate will ever read.

It will come to the floor. And then weeks afterwards, when people pore through the details, they will call us in our offices and say: Did you know there was a paragraph in this bill which has an impact on some people or some businesses? In all honesty, we don't. We rely on our leadership and other appropriators. Frankly, we rely on a system that is flawed, a system that allows this to happen too often. It is an unfortunate system and, frankly, reflects the fact that this Congress has been very unproductive.

When Members of the Senate return to their homes and are asked by average families in their States, what did you accomplish to make life better for the families of America, we will be hard pressed to point to any significant thing we have done.

If we pay attention to the polling data of what Americans are worried about and what families are concerned about, we have missed the boat entirely. We have missed it entirely, when it comes to the question of the relationship between American families and their health insurance companies. Time and time again, when asked, these families respond that they are concerned about the fact doctors are no longer making decisions, nurses are no longer making decisions. Decisions are being made by insurance companies and their clerks.

We are down to the wire. Most of the major issues that are on the minds of the American public are being buried in this session of the Congress. Most of the bills, such as the Patients' Bill of Rights, that could have helped working families are being stifled and gutted. The Senate passed a bill several months ago which was an embarrassment. It was, in fact, a protection bill

for the insurance companies. It didn't protect patients. It protected the CEOs of companies that are making literally millions of dollars off health care in America.

Over the steadfast opposition of the Republican leadership, the House of Representatives took a different course. They overwhelmingly approved, 275-151, a bipartisan bill with strong protections for all privately insured Americans. What a contrast. The Senate came up with an insurance version of the bill; the House came up with a version for American families.

Well, keep hope alive. Can there be a conference? Can we come together? Can we finally come up with a bill to protect American families? No. The honest answer is the Republican leadership in the House and the Senate refuse to convene the conference to come up with the bill and the House leadership has rigged the naming of conferees so that their conferees are all members who opposed the House passed bill. So we leave and close this session at the end of 1999 no better than when we started. We have nothing to say to the families across America when they ask whether we have taken any steps to protect them when it comes to their relationship with these insurance companies.

I am glad 68 Republicans in the House of Representatives broke from their leadership and voted with the Democrats for a real Patients' Bill of Rights. The bill the Senate passed on July 15 did absolutely nothing when it came to protecting Americans and dealing with their concerns about health insurance.

Let us take a look at some of the differences between the two bills introduced in the House and the Senate. This chart shows the Senate Republican bill and the bipartisan bill passed by Republicans and Democrats in the House of Representatives. It goes through a long litany of things American families tell us they want to see in their health insurance policies: protecting all patients, whether they are employed in a small or large business or bought their own insurance; the ability to hold plans accountable if they make the wrong decision about medical care; the definition of medical necessity; access to specialists; access to out-of-network providers—the list goes on and on—can a woman keep her OB/GYN as her primary care physician if that is the person with whom she is comfortable.

Some plans say no. Many women across America think that is a decision that should be made by them and their doctors. That is in this bill. And as we go through all of these, we find the bipartisan bill that passed the House of Representatives basically provides all these protections.

Look at the scant protections provided by the Senate Republican bill. You can see why many people across America think we have failed in our most important mission. The bill

passed by the Senate excluded more than 100 million Americans from basic protections of health insurance reform. Most of the provisions applied only to the 48 million Americans in big employer-sponsored plans. It failed to provide basic protection to millions of others.

In my State, Caterpillar Tractor Company's workers would have been covered by the Senate bill; Motorola's employees would have been covered. John Deere's would be covered. But America's small business employees would be left behind by the Senate Republican bill. A farmer in Macoupin County, IL, who pays for his own family's insurance, and pays a lot for it, wouldn't be safe from insurance abuses. Public school teachers, policemen, women, firemen, and so many others would be out of luck.

I will return to this in a moment. I will speak to another issue, which I believe the Senator from Massachusetts is going to address. That is the perilous situation we find ourselves in in the closing hours of the session when it comes to the critical question of fairness in organ allocation.

We have a situation across America where over 4,800 Americans die every year waiting for an organ transplant. There are people in your State and mine sitting by the telephone hoping for the call that tells them they have a chance to live. It is hard to believe this has become a political issue. In fact, it has. An effort by the Department of Health and Human Services to make organs available across America to those in need is being stopped by an organization and a special interest group that really has put profit ahead of human well-being. I hope we can address this and address it forcefully. Let it be known on a bipartisan basis that we want to take the politics and the special interests out of organ allocation, that our dedication is to the men and women and children sitting by those telephones waiting for word of the availability of an organ.

At this point, I yield the floor to my colleague from Massachusetts, Senator KENNEDY.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. Under the previous order, 9 minutes remain until the hour of 12.

#### TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT

Mr. KENNEDY. Mr. President, today, the House of Representatives will take up one of the most important bills to come before this Congress, now labeled the Ticket To Work and Work Incentives Improvement Act, which is intended to move us closer to opening the workplace doors for the disabled in communities across the country.

It is a sad day when the U.S. Congress finds it necessary to attach a

controversial provision to the legislation that could jeopardize the opportunity for large numbers of people with disabilities to fulfill their hopes and dreams of living independent and productive lives.

A decade ago, when Congress enacted the Americans With Disabilities Act, we promised our disabled fellow citizens a new and better life in which disability would no longer put an end to the American dream. Too often, for too many Americans, that promise has been unfulfilled. The Ticket To Work and Work Incentives Improvement Act is basically the legislation that Senator JEFFORDS of Vermont and I, Senator ROTH, and Senator MOYNIHAN urged the Senate to accept and had been accepted by the Senate by a 99-0 vote. Now the title is the Ticket To Work and Work Incentives Improvement Act, and it will dramatically strengthen the fulfillment of that promise.

We know that millions of disabled men and women in this country want to work and are able to work. But they are denied the opportunity, primarily because they lack the continued access to needed health care. As a result, the Nation is denied their talents and contributions to our community.

Eliminating the health care barriers to work will help large numbers of disabled Americans to achieve self-sufficiency and enable them to become equal partners in the American dream. The Ticket To Work and Work Incentives Improvement Act removes these unfair barriers to work that face so many Americans with disabilities. It makes health insurance available and affordable when a disabled person goes to work, or develops a significant disability while working; it gives people greater access to the services they need to become successfully employed; it phases out the loss of cash benefits as income rises, instead of the unfair sudden cutoff that workers with disabilities face today; it places work incentives in communities, rather than bureaucracies, to help workers with disabilities to learn how to obtain the employment services and support they need.

For far too long, disabled Americans have been left out and left behind. It is time for us to take the long overdue action needed to correct the injustices that have unfairly been placed upon those with disabilities. We should not have this legislation brought down by a controversial provision that does not belong in this bill—a provision that is effectively what they call around here a "poison pill." A provision that endangers the legislation.

I want to say that for a time it looked as if we were going to see a successful achievement for this legislation, and I want to commend my colleague and friend, the Senator from Vermont, Mr. JEFFORDS, for his strong leadership, as chairman of our Human Resource Committee. He has worked long and hard for this legislation. If we

are able to achieve it, his role in support of it and also in its development is enormously important.

On the unacceptable amendment that I had mentioned, it is the amendment which would effectively undermine the proposal of the Secretary of HHS on Final Rule for organ transplantation. There is an excellent editorial in the Washington Post, dated 11-17-99. It puts this issue in perspective. It says:

Congress has not quite given up the year-long attempt to block rules that would make the Nation's organ transplant network more equitable. House leaders are maneuvering to undo a deal reached by conferees allowing the rules to go into effect, even threatening to block an unrelated authorization for research and training at children's hospitals if the organ rules are not further delayed.

This was written at a time when they were threatening to hold up the help and assistance that pediatric hospitals need to train pediatricians, to make sure that pediatric hospitals were going to be treated fairly and equitably, as other teaching hospitals.

There is broad and wide bipartisan support for the proposal to support teaching in pediatric hospitals. But that was going to be the messenger, and the poison pill was going to be the language which, as I understand, would be a part of the legislation that we will see later on in the day.

Let me continue with the Post editorial:

The rules issuance last year touched off furious counter-lobbying by the supporters of the small local transplant centers who feared that a new system based more on finding the patients with the most urgent need, and less on keeping organs near home, would force small centers to close. Never mind if it also would save lives. Currently, when an organ becomes available, it is offered locally first and then regionally. That leads to situations in which people languish on long waiting lists in some places, while the wait in other regions is much shorter. The wealthy can get on multiple waiting lists and fly to wherever a liver or kidney becomes available. Since some 4,000 people a year die while waiting for an organ, you would think a proposal to purge the distribution system of some of its inefficiencies would have been welcome. Instead, local transplant centers turn to Congress, which twice attached riders to appropriations bills delaying the regulations' effective date. They also turned to State governments, many of which passed laws that bar and prevent organs from being transferred out of State. Finally, conferees reached a compromise that would delay the rules 6 more weeks, then let them go into effect.

Mr. President, that agreement was broken with the language that has been included on the disability legislation. By breaking that agreement, the lives of tens of thousands of desperately ill people are put at risk. Every year, thousands of people die while waiting for transplantation—and at least one person every day dies because the transplantation system is not equitable. The language included on the disability legislation violates fundamental fairness—the fairness of the bargaining process in which an agreement was reached between the



Secretary and the appropriators, and the fairness of the organ allocation system.

Mr. President, I will take only a moment or two more—because the time is moving on—to refer to the Institute of Medicine report, which really is the authoritative report on this whole issue. I will mention relevant parts of the institute report, and focus on the conclusion that the Institute of Medicine had on the whole question of developing rules on fairness for organ transplantation—the question of how to best address the moral issues and the ability of people to be able to be treated fairly under a system of organ distribution.

The Institute of Medicine's analysis shows that patients who have a less urgent need for a transplant sometimes receive transplants before more severely ill patients who are served by different OPOs. There is no credible evidence that implementing the HHS's recommendation would result in closure of smaller transplant centers.

Mr. President, that fear about the fate of small centers is the heart of the argument of those that have put on this rider. A rider that has no business being put on this legislation.

The Institute of Medicine analysis further found that there is no reason to conclude that minority and low-income patients would be less likely to obtain organ transplants as a result. Likewise, data does not support the assertion that potential donors and their families would decline to make donations because an organ might be used outside the donor's immediate geographical area.

The Institute of Medicine recommended that HHS—and this is on page 12 of the report—should exercise the legitimate oversight responsibilities assigned to it by the National Organ Transplant Act, and articulated in the Final Rule, to manage the system of organ procurement and transplantation in the public interest.

Federal oversight is needed to ensure that high standards of equity and quality are met. Those high standards of equity and quality were included in the Secretary's excellent recommendation. By tampering with those, we are undermining enormously powerful and important health policy issues. And this extremely controversial rider is added onto underlying legislation which is so important to millions of disabled individuals in our country. Individuals who thought—when this legislation moved through with very strong bipartisan support in the Senate, and then through the final months, has moved through the House of Representatives, and has the strong support of President Clinton, and has had the bipartisan support here in the Congress—thought that there was going to be a new day for those who have physical or mental challenges and disabilities to have the ability to participate in the workforce and become more productive, useful, active, and independent citizens in this country, and also to be able to con-

tribute to the Nation in a more significant way.

I certainly hope we can work through this process because the legislation, which as I mentioned, has been completed and supported in a bipartisan way, is a lifeline to millions of Americans and deserves passage.

I see my friend and colleague, Senator JEFFORDS, who has been instrumental in having this legislation advanced. I am glad to see him on the floor at this time. I hope he will address the Senate on this issue.

#### MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

The Senator from Vermont.

#### EXTENSION OF MORNING BUSINESS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that morning business be extended until 1 p.m. with the time equally divided in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I thank the Senator from Massachusetts. I would be happy if he desires to more fully discuss what we have done. I was not here to hear his full speech. I thank him. We have worked together. He was here years before I came to the Senate. In 1975, we had the initial big step forward for the disabled and were able to set up the 94142, as it was called then, to make sure all children got a good education, and specially those with disabilities.

As we have walked through this over a period of many years, we have fought year by year to remove block by block what the disabled community has had to face. Finally, we are at that point where we are opening the final door to allow them to do what all disabled want to do, and that is to have a meaningful life, to be able to seek employment, and get employment without having the doors slammed because they lost their benefits.

I can't thank the Senator enough for what he has done. Also, there are others, some who have left this body, such as Bob Dole, who was another leader for the disabled. I praise him also for the work he did, and especially in this area where he helped us introduce the bill that we were so happy to be able to cosponsor and to see it put into the final steps.

I thank the Senator from Massachusetts profusely for all he has done. I would be happy to yield for any further comment.

Mr. KENNEDY. As I mentioned earlier, this has been a continuing process beginning with the passage of the Americans With Disabilities Act, when we put into law protections for the disabled so they wouldn't be discriminated against in the workplace based upon their disability.

As the Senator knows very well, that has been enormously important and

has been effective. But as the Senator has pointed out, with this legislation complimenting what has been achieved with the Americans With Disabilities Act, we can open an entirely new dawn for millions who have some disability.

As we are getting closer to achieving that, I am sure the Senator agrees with me that when we finally have the President's signature on this, there will be people saying: What has taken them so long? This is such a common-sense approach. But as the Senator knows, this has been a battle every step of the way. There have been those who have felt that if we do this for this particular group, we might be establishing some form of precedent that may be used somewhere down the road, and worry if we know where it might lead.

There are a number of strong negative voices out there. Nonetheless, I think with the leadership of the Senator from Vermont and others—he mentioned certainly Senator Dole, Senator Weicker, and our good friend on our human resources committee, TOM HARKIN, who is generally recognized in this body as one of the real authorities on disability issues—this has been a common effort of this institution. It is an area of public policy where this institution has done what it is challenged to do; and that is to find common ground in a bipartisan way to address a common concern that affects millions of Americans and make progress on it.

I again thank the Senator from Vermont for the opportunity to work with him. We still have a ways to go to make sure the legislation actually reaches the people and addresses the regulations in the way it is intended. But I think this is going to be enormously important—and I hope soon to finally have the President's signature on this legislation. We are much closer today than we have ever been in the past.

I join with the Senator to thank him for his good work. We hope to see that this is actually put into place and implemented so it will benefit those that it should benefit.

I thank the Senator.

Mr. JEFFORDS. Mr. President, again, I thank the Senator from Massachusetts for those comments and for all the work he has done.

I am delighted to stand before you today, to speak about an extremely important piece of legislation. The bill we are sending to the President today, a bill I know he is eager to sign into law, will have a tremendous impact on people with disabilities. In fact, this legislation is the most important piece of legislation for the disability community since the Americans with Disabilities Act.

My reason for sponsoring this particular piece of legislation is quite simple. The Work Incentives Improvement Act of 1999 addresses a fundamental flaw in current law. Today, individuals with disabilities are forced to make a



choice . . . an absurd choice. They must choose between working and receiving health care. Under current federal law, if people with disabilities work and earn over \$700 per month, they will lose cash payments and health care coverage under Medicaid or Medicare. This is health care coverage that they cannot get in the private sector. This is not right.

Once enacted, the Work Incentives Improvement Act of 1999 will allow individuals with disabilities, in states that elect to participate, continuing access to health care when they return to work or remain working. In addition, those individuals who seek it, will have access to job training and job placement assistance from a wider range of providers than is available at this time. Currently, there are 9.5 million individuals with disabilities across the country who receive cash payments and health care coverage from the federal government. Approximately 24,000 of these individuals live in my home state, Vermont. Once enacted, the Work Incentives Improvement Act will actually save the federal government money. For example, let's assume that 200 Social Security disability beneficiaries in each state return to work and forgo cash payments. That would be 10,000 individuals out of the 9.5 million individuals with disabilities across the country. The annual savings to the Federal Treasury in cash payments for just these 10,000 people would be \$133,550,000! Imagine the savings to the Federal Treasury if this number were higher. Clearly, the Work Incentives Improvement Act of 1999 is fiscally responsible legislation.

I began work on this bill in 1996. Though it was a long and sometimes difficult task, many hands made light work. Senator KENNEDY, Ranking Member on the HELP Committee, joined me in March of 1997. Senators ROTH and MOYNIHAN, Chairman and Ranking Member on the Finance Committee signed on as committed partners in December of 1998. Last January, 35 of our colleagues, from both sides of the aisle, joined us in introducing S. 331, the Senate version of this legislation. One week later, in a Finance Committee hearing, we heard compelling testimony from our friend, former Senator Dole, a strong supporter of this legislation. A month later, we marked this legislation out of the Finance Committee with an overwhelming majority in favor of the bill. Finally, on June 15th, with a total of 80 cosponsors, we passed this legislation on the floor of the United States Senate, with a unanimous vote of 99-0.

Four months later, over 35 of our colleagues in the House of Representatives, took to the floor of their chamber, and spoke eloquently for their version of this legislation. Later that day, the bill passed the floor of the House with a vote of 412-9. Since then, the Senate and House Conferees have been working diligently in effort to

reach common ground. I am very pleased today, that the differences in policy in the two different bills have been resolved and consensus has been reached on a conference agreement. This agreement does not compromise the original intent of the legislation, retaining key provisions from S. 331.

From my perspective, the Work Incentives Improvement Act of 1999 represents a natural and important progression in federal policy for individuals with disabilities. That is, federal policy increasingly reflects the premise that individuals with disabilities are cherished by their families, valued and respected in their communities, and are an asset and resource to our national economy. Today, most federal policy promotes opportunities for these individuals, regardless of the severity of their disabilities, to contribute to their maximum potential—at home, in school, at work, and in the community.

I have been committed to improving the lives of individuals with disabilities throughout my Congressional career. Providing a solid elementary and secondary education for children with disabilities, so that they will be equipped, along with their peers, to benefit from post-secondary and employment opportunities is crucial. When I came to Congress in 1975, Public Law 94-142, the Education for all Handicapped Children Act, now the Individuals with Disabilities Education Act (IDEA), was enacted into law. IDEA assures each child with a disability, a free and appropriate public education. I am proud to be one of the original drafters of this legislation which has reshaped what we offer to and expect of children with disabilities in our nation's schools.

In addition, I have been committed to providing job training opportunities for individuals with disabilities. In 1978, I played a central role in ensuring access to programs and services offered by the federal government for individuals with disabilities through an amendment to the Rehabilitation Act. I believe that this amendment alone laid the foundation for significant legislation that followed, including the Technology-Related Assistance for Individuals with Disabilities Act of 1988, now the Assistive Technology Act of 1998, both of which I drafted. Most importantly, this legislation opened the doors for the most comprehensive piece of legislation of all, the Americans with Disabilities Act of 1990. This legislation prohibits discrimination on the basis of disability in employment, public services, public accommodations, transportation, and telephone service.

These laws have forever changed the social landscape of America. They serve as models for other countries who recognize that their citizens with disabilities are an untapped resource. In our country, individuals with disabilities are seen everywhere, doing everything. Just this past weekend, thousands of physically disabled individuals participated in the New York City Mar-

athon, as they have been doing for years. The expectations that these people set for themselves and the standards we apply to them have increasingly been raised, and now in many circumstances equal those set and applied to other individuals.

Unfortunately, one major inequity remains. That is, the loss of health care coverage if an individual on the Social Security disability rolls chooses to work. Individuals with disabilities want to work. They have told me this. In fact, a Harris survey found that 72 percent of Americans with disabilities want to work, but only one-third of them do work. With today's enactment of the Work Incentives Improvement Act of 1999, individuals with disabilities will no longer need to worry about losing their health care if they choose to work a forty-hour week, to put in overtime, or to pursue career advancement. Individuals with disabilities are sitting at home right now, waiting for this legislation to become law. Having a job will provide them with a sense of self-worth. Having a job will allow them to contribute to our economy. Having a job will provide them with a living wage, which is not what one has through Social Security.

In addition to continuing health care coverage and providing job training opportunities for individuals with disabilities, this legislation offers many other substantial long-term benefits. The Work Incentives Improvement Act of 1999 will give us access to data regarding the numbers, the health care needs, and the characteristics of individuals with disabilities who work. Furthermore, this legislation will provide the federal government as well as private employers and insurers, the facts upon which to craft appropriate future health care options for working individuals with disabilities. It will allow employers and insurers to factor in the effects of changing health care needs over time for this population. Hopefully, it will even improve the way in which employers operate return-to-work programs. Through increased tracking of data, we will learn the benefits of intervening with appropriate health care, when an individual initially acquires a disability. We will also learn the value of continuing health care to a working individual with a disability. If an individual, even with a severe disability, knows that he or she has access to uninterrupted, appropriate health care, the individual will be a healthier, happier and thus more productive worker.

I would like to take the time now to briefly outline the major provisions which have remained as part of this legislation. The conference agreement retains the two state options of establishing Medicaid buy-ins for individuals on Social Security disability rolls, who choose to work and exceed income limits in current law, as well as for those who show medical improvement, but still have an underlying disability.

For working individuals with disabilities, the conference agreement extends access, beyond what is allowed in current law, to Medicare. In addition, the legislation before us today retains several key provisions from S. 331, including, the authority to fund Medicaid demonstration projects to provide access to health care to working individuals with a potentially severe disability; the State Infrastructure Grant Program, to assist states in reaching and helping individuals with disabilities who work; work incentive planners and protection and advocacy provisions; and finally, most of the provisions in the Ticket to Work Program.

In order to control the cost of this legislation, compromises were made. Although the purpose of the State Infrastructure Grant Program and the Medicaid Demonstration Grant Program remain the same, the terms and conditions of these grants were altered in conference. As a result, states are not required to offer a Medicaid buy-in option to individuals with disabilities on Social Security, who work and exceed income limits in current law, prior to receiving an Infrastructure or a Medicaid Demonstration Grant.

Also in Conference, the extended period of eligibility for Medicare for working individuals with disabilities has been changed from 24 to 78 months. During this extended period, the federal government is to cover the cost of the Part A premium of Medicare for a working individual with a disability, who is eligible for Medicare. S. 331 would have extended such coverage for an individual's working life, if he or she became eligible during a 6-year time period.

I would like to note two changes to the Ticket to Work program made during Conference. The new legislation shifts the appointment authority for the members of the Work Incentives Advisory Panel from the Commissioner of Social Security to the President and Congress. In addition, language regarding the reimbursements between employment networks and state vocational rehabilitation agencies was deleted in Conference. The new legislation gives the Commissioner of Social Security the authority to address these matters through regulation.

Although several changes have been made from the original Work Incentives bill, I am still very pleased with what we are adopting today. This is legislation that makes sense, and it will contribute to the well-being of millions of Americans, including those with disabilities and their friends, their families, and their co-workers. Today's vote provides us the opportunity to bring responsible change to federal policy and to eliminate a misguided result of the current system—if you don't work, you get health care; if you do work, you don't get health care. The Work Incentives Improvement Act of 1999 makes living the American dream a reality for millions of individuals with disabilities, who will no

longer be forced to choose between the health care coverage they so strongly need and the economic independence they so dearly desire.

In closing, I would like to thank the many people who contributed to reaching this day. I especially thank the conferees, Majority Leader LOTT, Senators ROTH and MOYNIHAN, and in the House, Majority Leader ARMEY, and Congressmen ARCHER, BLILEY, RANGEL, and DINGELL. I also thank their staff who worked so closely in effort to reach this day. From my staff, I thank Pat Morrissey, Lu Zeph, Leah Menzies, Chris Crowley, and Kim Monk. I want to recognize and extend my appreciation to the staff members of my three fellow sponsors of this bill; Connie Garner in Senator KENNEDY's office, Jennifer Baxendell and Alexander Vachon with Senator ROTH, and Kristen Testa, John Resnick, and Edwin Park from Senator MOYNIHAN's staff. Finally, I wish to thank Ruth Ernst with the Senate Legislative Counsel for her drafting skill and substantive expertise, her willingness to meet time tables, and most of all, her patience.

In addition to staff, we received countless hours of assistance and advice from the Work Incentives Task Force of the Consortium for Citizens with Disabilities. These individuals worked tirelessly to educate Members of Congress about the need for and the effects of this legislation.

Finally, I would like to urge my colleagues in both chambers to set aside any concerns about peripheral matters and to focus on the central provisions of this legislation. Let's focus on what today's vote will mean to the 9.5 million individuals with disabilities across the nation. At last, these individuals will be able to work, to preserve their health, to support their families, to become independent, and most importantly, to contribute to their communities, the economy, and the nation. We are making a statement, a noble statement and we must do the right thing. Let's send this bill to the President.

Thank you, Mr. President.

Mr. DURBIN. Mr. President, under the unanimous consent agreement, how much time remains in morning business?

The PRESIDING OFFICER (Mr. BENNETT). We are in morning business until 1 o'clock, with the time equally divided between the two sides.

Mr. DURBIN. The remaining time on the Democratic side?

The PRESIDING OFFICER. Twenty-six minutes.

#### LEGISLATIVE LANDFILL

Mr. DURBIN. Mr. President, as we reflect at the end of this legislative session on our accomplishments, it is my belief that there are very few things we can go back home to tell the American people we achieved.

100 Senators and 435 Members of the House of Representatives came to

Washington, DC, at the beginning of the year and listened closely to President Clinton's State of the Union Address where he outlined a program and some objectives, many stood and cheered. The applause lines were frequent during the course of that speech. People of both political parties left the State of the Union Address saying they were now energized and invigorated to go forward and address the issues facing America, and we began the legislative process.

For me, it is the 17th time I have been through this. It is hard for me to remember another session of the Congress as unproductive as this session of the Congress. When it came to issues that the people and families across America care about, this Congress refused to do anything. This wasn't a titanic struggle between the Republican conservative agenda and the progressive agenda of the Democrats where we brought issues to the floor and fought over amendments from one side to the other. That is what we are supposed to see on Capitol Hill. That didn't happen because there was no agenda on the other side. The Republican leadership had no agenda.

Recently, a Republican Congressman said we considered this year a "legislative timeout." When timeouts occur during the course of an NFL football game, most people leave the room and go to the refrigerator; if America's families had left the room and gone to the refrigerator, they would have spent a lot of time there this year if they were waiting for Congress to do something. We didn't do it. We didn't respond. Now we have to go home, as we should, and explain it.

Let me state some of the issues we failed to act on this year, issues that make a difference to families across America. The Patients' Bill of Rights: The relationship of a person, a family, a business, to their health insurance company. That is pretty basic. When we asked America's families, they said that is the No. 1 concern. We want to make certain, when we go in a doctor's office, that the doctor makes the decision, not some clerk at an insurance company off in Topeka, KS.

I know from my experience in Illinois, as most others know from their own personal experiences, many times doctors are being overruled. I can recall a doctor who said to me a mother came in the office with an infant and the baby had been complaining of a headache on the right side of his head for several months. The doctor asked if it was always complaining about one side of the head, and the mother said yes. The doctor thought: I had better take an MRI to see if there might be a brain tumor. Before he said that to the mother, he looked at her file for the name of her insurance company. He said, excuse me, left the room, got on the phone and called the insurance company. He said: The mother presents herself with an infant complaining of headaches for several weeks and

months on one side of the head. It is my medical decision and opinion we should have an MRI to determine whether there is a possibility of a brain tumor.

The voice on the other end of the phone said: No; no. The insurance company that pays for the bills declines that procedure.

That doctor had to walk back to that room and not even tell the mother what had happened. He was bound by his contract not even to disclose that his medical judgment had been overruled by an insurance company clerk.

That is the state of health care in America. Families who go into those doctors' offices, confident the patient-doctor relationship is a sacred one that can be trusted, are beginning to think twice. They appeal to Members of Congress, Democrats and Republicans: Do something; restore our faith in our medical system. Restore quality health care. Pass a Patients' Bill of Rights.

No, not in this Congress. This Congress and the Senate on July 15 passed a bill friendly to the insurance companies—as if they needed another friend on Capitol Hill—a bill which, frankly, didn't address the most basic issues families worry over every single day.

I won't even get into the question of expanding medical insurance coverage. We wouldn't even utter those words on Capitol Hill for fear it might bring down charges of radicalism, the idea that the 44 million uninsured Americans who grow in number every year might have their Government care enough to do something. We are not in that business with the Republican-controlled Congress. We don't talk about those things—like the aunt who is somewhere off in the distance, never referred to by a family.

We don't talk about medical coverage for all Americans. Families talk about it. Families talk about their kids turning 23 years of age, coming off the health insurance policies of their moms and dads, and whether they have a chance to be covered. Families talk about whether or not someone with a preexisting condition can find insurance in this country. We don't talk about it in Congress, no. The insurance companies don't want Members to talk about it. The special interests ruled this session of Congress.

We see in the Republican legislative landfill of the 106th Congress the Patients' Bill of Rights, an issue we failed to address.

The nuclear test ban treaty: Just a few weeks ago, possible one of the worst decisions made by Congress in a decade, a decision to turn down a treaty where the United States not only would have the moral leadership in the world but enact a treaty that backs it up and says to countries around the world: If you are not a nuclear power, don't become one. If you have nuclear weapons, don't test them. Let's stop this nuclear arms race in place.

This nuclear test ban treaty failed in the Senate on a largely partisan vote.

It was a sad day for America. It was a sad day for a country which has tried to lead the world and say to countries such as India and Pakistan, stop what you are doing, don't keep this arms race going and develop nuclear weapons that could mushroom into a war that would destroy not only people in those two countries but in many other nations. This Congress, this Senate, failed to enact a nuclear test ban treaty.

We failed to enact any legislation to deal with school construction. Take a look at the numbers: There will be more kids showing up for classes in the next 10 years than we have been serving in the last 10 or 20 years. Those kids need teachers, they need classrooms, they need modern schools, schools where they have the electricity to make certain they can sustain the computer technology, schools that are safe, schools where kids have a positive learning environment. When the President made this proposal for school construction, it was greeted with disbelief and disapproval on the other side of the aisle. We have done nothing in this session of Congress to deal with school construction.

Campaign finance reform: Is there a more basic issue for the future of Congress? Will we ever change the current system which has become a bidding war among special interests where Members of the Senate such as myself literally have to be on the phone day and night, begging for money for a campaign that costs millions of dollars? If you are not independently wealthy and cannot write a big check to sustain your own campaign in the Senate, you spend most of your time begging for money. Is that what Americans want in the Senate or the House of Representatives? I don't think so.

A bipartisan bill—Senator JOHN MCCAIN, a Republican, of Arizona, and Senator RUSS FEINGOLD, a Democrat from Wisconsin—said we can clean up this system, but this Congress failed to enact meaningful campaign finance reform. Only 55 Senators—45 Democrats and 10 Republicans—came forward in support of this most basic change in reform.

As part of the legislative landfill of the 106th Congress, Republicans were successful in not passing campaign finance reform.

Minimum wage increase? The minimum wage in this country is \$5.15 an hour. When you calculate that out, it means a little over \$10,000 a year in income. Can any of us consider a life on \$10,000 a year and what it would mean? Keep in mind, these are men and women who get up and go to work every single day and make \$5.15 an hour. Inflation eats away at it, at a wage that was already too low to be livable. We tried this year to increase the minimum wage by 50 cents an hour each year over the next 2 years, saying it is only fair that working men and women have that help from their Government. We were resisted on the Re-

publican side of the aisle. Ultimately, they came up with their own package. They do not do it over 2 years; they do it over 3 years, which costs those wage earners \$1,200 a year in income to take that approach. Mr. President, \$1,200? You might say that is not that big a deal. It is if you are making \$10,000 a year; it is a very big deal.

The Republican approach representing special interests in stopping the minimum wage increase prevailed. They also added in there some tax breaks that, frankly, cannot be taken seriously because they did not pay for them. There we have it—the minimum wage issue into the landfill.

This is one you will remember, the juvenile crime control bill. You will remember it because it came up right after Columbine High School. It was an effort by the Senate to pass a sensible gun control law. When the final vote was cast, it was 50-50. Vice President Al Gore came to the floor, broke the tie, and we enacted the bill which said as follows: When people buy guns at gun shows, we want to know if they have a history of violent mental illness or a criminal record.

In an effort to keep guns out of the hands of criminals and kids, we passed a sensible gun control measure, sent it across the Rotunda to the House of Representatives, where it literally died because the National Rifle Association and the gun lobby decided they did not want to pass any gun control bills this session. This Nation, which was shocked by the occurrences at Columbine and so many other schools, had a chance to pass sensible gun control legislation and failed. We will go home now to face our constituents, many of whom live in cities where gun violence is a commonplace occurrence, and have to tell them this Congress failed to pass any sensible gun control legislation.

Smaller class size—thank goodness the President prevailed in his negotiations. The President's goal, and one I share, is to reduce class size in the early grades so quality teachers can meet with kids right when they are starting their education and help them along. You take the kids who are the best and the brightest and you give them the biggest challenges. You take those who may be suffering from some learning disability, you diagnose their problem and try to deal with it at an early age. You take the kids who do not learn as quickly and give them special attention. For teachers to achieve that, they need smaller class sizes. If you put 30 kids in a classroom, the teacher is lucky to maintain discipline, let alone meet the special needs of individual students.

So the President said, and I agree: We need to focus 100,000 teachers into reducing class size across America. Until a few days ago, the Republicans had opposed this. Finally, the President prevailed. Finally, we are moving forward on this initiative which we started last year that serves school districts all across America, not just in

the cities but in the towns and suburbs alike.

Look at the efforts to help family farmers. We finally came through with that on a bipartisan basis. It is one of the things we achieved this year. But it begs the question, to leave it at that, because next year if we do not change the basic Federal farm policy, the so-called Freedom to Farm Act, we are going to see a rerun, unfortunately, of what we saw this year—farmers literally struggling to survive. As prices across the world have plummeted, they cannot make a decent income.

In my home State of Illinois, a State that has a very strong farm sector, just a few years ago the average net farm income for a farmer was about \$48,000 a year. This year it will be about \$25,000. That is about half. But \$13,000 of the \$25,000 will come from Federal payments. The other about \$12,000 will come in farm operations. We cannot sustain a farm economy where half the income of farmers in Illinois and Minnesota or Nebraska comes from the Federal Treasury. The law has to be changed, and this year we did not take up a change in the law as we should have.

The last point I would like to make before I yield to my colleague from Minnesota is this. The Patients' Bill of Rights is an issue we have to return to as the highest priority in the next Congress. When you consider the lives of people who are dependent on this action, you understand the severity of it. I will tell one quick story.

Take a look at this little girl here. She is Theresa. She lives in Yorkville, IL. Her dad is a police officer and her mom stays at home to look after her. She suffers from a rare disease known as spinal muscular atrophy. It is a very debilitating disease. As you can see, she is on a ventilator, and I met a couple of kids just like this. This is what her mother says:

She was hospitalized from September 2nd last year until February 15 of this year due to fighting the insurance company for certain provisions we could not do without in our home.

We had to fight and fight with the insurance company for things the doctors had said were needed [for Theresa.] So we fought for 2½ months. We eventually did get everything that we needed, except it was a very long battle.

Can you imagine having your family separated that long because the insurance company did not want to help?

Theresa caught RSV in the hospital while we were waiting for the appeal to go through. That is why she now has [a ventilator and tracheotomy.]

That is a real life family. Theresa's dad is a policeman. Theresa and her family would not be protected by the Republican version of the Patients' Bill of Rights. They would not have the benefit of an appeals process in a timely fashion so they could get a good answer, a sensible medical answer for this little girl. Instead, they are embroiled in month after month of weary debate with the insurance company. That is

health care in America for too many American families. This Congress has failed, utterly failed to address this critical issue.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized. We are going from side to side.

Mr. WELLSTONE. I thank the Chair. I wonder if I can ask unanimous consent to follow the Senator from Kentucky?

Mr. INHOFE. Reserving the right to object, I inquire of the Chair, it is my understanding we had until the hour of 1 o'clock equally divided. I ask how much time is remaining on each side?

The PRESIDING OFFICER. On the Republican side, there are 22 minutes 37 seconds. On the Democratic side, there are 9 minutes 33 seconds.

Mr. INHOFE. I thank the Chair.

The PRESIDING OFFICER. Without objection, the Senator from Minnesota will be recognized following the Senator from Kentucky.

#### THE TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT

Mr. BUNNING. Mr. President, I rise in strong support of the work incentives and ticket to work legislation. This is a day I have looked forward to for a long time.

It is a great day for the disabled in America. By passing this legislation, we are going to make it easier for them to return to work and become self-sufficient. We are going to give those who want to try to return to work the tools they need to support themselves and to escape from the dependency on a monthly Government check.

For years, the Social Security disability program has provided a vital safety net to assist those who fall on hard times and need help when they become sick or injured and cannot support themselves. It has done this job well. But for the many disabled people who have wanted to return to work and could be able to work, the disability program has not worked as well. It has not properly equipped them to return to the workforce. It has not given them the tools they need to move off the disability rolls. In fact, fewer than 1 percent of those who go on the disability rolls—that is currently 4.5 million people—never return to work because the program does not provide an adequate support network or resources for these Americans to move back into the workforce.

For these disabled people, the disability program has become a black hole. Once they fall in, they cannot escape. The bill we hope to pass today or tomorrow finally gives these Americans new hope, the ladder they need to climb out of that hole. The Ticket To Work and Work Incentives Improvement Act modernizes the disability program and moves it into the modern age and provides more options for the

disabled who want to work. It provides them with a ticket that can be used to help acquire skills to reenter the workforce.

Under the old system, these workers had only one option if they wanted to return to work; they had to work through their State vocational rehabilitation programs. This option will still be open to them, but now they will also be able to use their "ticket" to go to other provider networks and employers to obtain skills and jobs. In short, the "ticket" expands opportunity for training and choices for rehabilitation for the disabled, and gives them the ability to tap into the power of the free market.

This legislation also addresses the most pressing need for most of those who want to leave the disability rolls and return to work—the availability of adequate health care. Many of these potential workers continue to require a high degree of medical care even after they return to work. Obtaining this care—and paying for it—is often a high hurdle to cross, especially for those who move back to the workplace in entry and lower-level positions. Under the bill we are dealing with today, we expand continued Medicare coverage for the disabled and also increase Medicaid funding to the States to help them address the problems.

All in all, this bill is win-win. It is a winner for the disabled community and a winner for the American taxpayers and all of us who pay Social Security taxes. The Congressional Budget Office tells us that for every 1 percent of disability recipients who return to work, the Social Security disability trust fund saves \$3 billion. That is serious money. If this legislation only works partly as well as we expect, it will make a tremendous difference for the future of the trust fund and our ability to look after the neediest Americans.

It's been almost 5 years since Congress began looking into problems with the disability program. In 1995, when I was the chairman of the House Social Security Subcommittee, we began holding hearings on possible changes we could make to Social Security to help the disabled. After those hearings, former Congresswoman Barbara Kenelley and myself wrote reform legislation that passed in the House in 1998 by a vote of 410-1. While my bill died in the Senate last year because Senator KENNEDY put a hold on my bill and some shenanigans by the White House, it is at the core of the legislation we are passing today and I am very proud of that. We have worked very hard to make sure the ticket-to-work portion of this reflects the bill that passed the House last year 410-1.

This is a good bill, and I urge my colleagues to support it. It will truly make a difference for many Americans who need it the most, and I think it will stand as one of the most significant pieces of legislation to pass during this Congress.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Minnesota is recognized.

#### NORTHEAST DAIRY COMPACT

Mr. WELLSTONE. Mr. President, in a while—though it is not clear when—it is my understanding that Congressman OBEY from Wisconsin—and I see Senator FEINGOLD from Wisconsin on the floor right now—is in the House with any number of different motions to adjourn before this conference report is acted upon.

We will eventually get this huge omnibus conference report. Those of us from the midwest dairy States are indignant about what has been done. It goes beyond dairy. Later on, believe me, we are going to have plenty of time to talk about dairy farmers. We are going to talk about what it means to dairy farmers, what it means to our States, and what it means to the country when, in a conference committee, provisions that extend the Northeast Dairy Compact and also block what Secretary Glickman was trying to do with the milk marketing order reform are put into the overall bill.

What I want to focus on is the process. To focus on the process, one might say, is a little bit too inside Washington politics, but I do not think so because actually, I say to my colleagues, Democrats and Republicans alike, this is, in a way, what makes people most distrustful of what we do.

By the way, I am not going to argue that everything we do should be looked upon with suspicion by citizens. I am not going to engage in an across-the-board indiscriminate bashing of the whole political process. But I will say, if people do not believe in the process, they do not believe in the product.

Again, what has happened, in all due respect to the negotiators, is by not getting the work done on these appropriations bills and by putting all of this into an omnibus bill, we have had a few people negotiating. If the majority party in a conference committee wants to roll the minority party, they can do so. That is what they have done in the House by basically putting in this provision that extends the Northeast Dairy Compact and blocks the milk marketing order reform.

We had a vote on this in the Senate. We voted against extending the dairy compact. It was a square and fair debate and vote. Then, in a conference committee, completely unrelated to the appropriations bills, completely unrelated to what the scope of the conference committee was supposed to be, these provisions were put back in the bill in the dark of night. House Majority Leader ARMEY announced they had done it, and Senate Majority Leader LOTT announced the provision was in. There was never debate and discussion. They tucked into the conference report this huge monstrosity of a bill that hardly any of us have had a chance to read yet, which will be coming over here sometime.

I come to the floor to say to Congressman OBEY in the House: I applaud your efforts. What we have is raw politics—just get this through. That is what they have done with this Northeast Dairy Compact. They could not do it on the floor of the Senate. They stuck it in a conference report. They did it in the dead of night. They did it outside any public scrutiny. And now they present it to us in a conference report as a fait accompli. They set up a continuing resolution that goes into next week.

They figure out ways of jamming people, and it is unclear as to what leverage we have left. But, as Congressman OBEY is doing in the House, I am sure those of us who are from Wisconsin and Minnesota in the Senate intend to speak out. We intend to be very clear about what has happened, and we will do all we can as Senators. We will go from there.

I say to my colleagues that almost as much as the final product, I came to the floor of the Senate to strongly dissent from the way it was done.

I understand the rules. I understand what it is all about when people have figured out a way to roll Senators. I think that is what the majority leader, the Senate majority leader, and House Majority Leader ARMEY have done. I think that is what the Republicans have done in this conference committee. There is no question about it.

But I want people in Minnesota to know that we will continue to speak out about this, even as we see less and less opportunities for our leverage. We will fight in whatever way we can. We will certainly not be silent about this.

When this bill comes over, I would think, I say to my colleague from Wisconsin, Senator FEINGOLD, we can probably expect a considerable amount of discussion about not only the impact on dairy farmers and what it is going to mean for a lot of people who are going to go under who are already struggling enough, but I think also, I say to Senator FEINGOLD, who has been such a reformer, the way it has been done, the whole process, which I think is profoundly antidemocratic, with a small "d"—not up-or-down votes, late at night, tucked into a report; by whom, when, how, not at all clear, and then design rules in such a way you can just roll it through—we will certainly be speaking out loudly and clearly about it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

#### A PRODUCTIVE SESSION AND ISSUES FACING AMERICA

Mr. INHOFE. Mr. President, while presiding and listening to some of my distinguished colleagues talking about the lack of productivity of this session of the legislature, there are a few things that were very productive and that we can be very proud of when we go home and say we were able to get certain things done.

Before doing that, though, and to ensure I get one point out before using up the time that is allotted, the distinguished Senator from Illinois named a number of issues that he thought were somewhat disgraceful—for example, the fact that we do not have more gun control legislation.

Maybe because of my roots back in Oklahoma, I find it very difficult to understand this mentality, that somehow guns are the culprit as opposed to the people, and somehow that honest, law-abiding Americans should have to be disarmed, should have to give up their guns, while the criminal element would not be giving up their guns.

Time and time again, every survey that has been done, every study that has taken place, has come to the conclusion that the problems that we have are of a criminal element. There are people out there who are not getting adequately punished, and they will continue to have firearms.

I will just make one statement. It seems incredibly naive to me anyone could believe that if we pass a law that makes it illegal for all citizens to own guns, somehow the criminal element, who by their very definition and nature, are criminals, will comply with the law.

Also, it seems very frustrating to me that we have a President of the United States who wants to have all kinds of legislation to take away guns from law-abiding citizens and at the same time turns 16 terrorists loose on the streets of America; that we have a President of the United States who will make speeches—as this President made some 133 times, including in two State of the Union Messages—that now, for the first time in contemporary history, the first time since the dawn of the nuclear age, there is not one—I repeat, not one—missile aimed at American children tonight. When he made that statement, he knew full well that in at least one country, China, there were a minimum of at least 13 American cities that were targeted at that very moment. So we are living in a very dangerous world.

I listened to the concerns that we have on the nuclear test ban treaty. As chairman of the Readiness Subcommittee of the Senate Armed Services Committee, I would like to kind of lead into that to at least explain to thinking people that we did the right thing by not unilaterally disarming with the Comprehensive Test Ban Treaty, which is not verifiable.

First of all, I can say—and I do not think anyone can challenge this statement—we are now in the most threatened position that we have been in, in the history of America. By that, I mean for things that have happened in the last 7 years in three broad categories.

First of all, we have a President of the United States who, through his veto messages, starting in 1993 in vetoing the defense authorization bills, and then succeeding bills since that

time, has done so, so that we would have to cut down the size of our military, so that we now have ended up having a force strength of one-half of what we had in 1991 and 1992 during the Persian Gulf war.

It is not a matter of the President vetoing defense authorization bills and taking money out of our defense system to put into his favorite domestic social programs, but at the same time he has deployed our troops to places all over the Earth where we have no national security interests. So now we have troops in Bosnia.

I remember in December of 1995, when we were on the floor trying to pass a resolution of disapproval, to stop the President from sending our rare military assets to places such as Bosnia. We lost it by three votes. The President said: Let me do this. If we defeat this resolution, and if we get to send troops into Bosnia, I promise they will be home for Christmas 1996. Here we are. We are getting close to Christmas 1999 and the troops are still not home. There is no end in sight.

We have the same thing in Kosovo. We have had serious problems. I have gone over to Kosovo, I am sure, more than any other Member has, only to find out this is a war that has been going on for 600 years, a war where the two sides alternate in who is the good guy and who is the bad guy. Ethnic cleansing has taken place historically for 600 years on both sides; both on the Serbian side and the Albanian side.

So it was a horrible awakening I had when I was over there, right after we went in there with cruise missiles, where we had refugees in different places such as Tirana, Albania. I can remember walking through the refugee camp. The people were well cared for. They were doing quite well. But then they looked at me and said: When are you and America going to do something about our problem?

I said: What is your problem?

They said: Well, we're refugees.

I said: Why should we in the United States be as concerned about that as other countries?

They said: Because it is because of you that we are refugees. It is because the ethnic cleansing was not accelerated until the time that the bombs started being dropped on that town.

So we now have a weakened defense system because we have starved it into a degree of weakness. Yet we are living in a time when virtually every country has weapons of mass destruction.

And now we find out that in conventional warfare we are not superior anymore. Wake up America. We are not superior anymore. We found out the other day that two of our Army divisions are ranked as C-4, which means they are not capable of combat. And what are these divisions? These divisions are the 10th Army Mountain Division in Bosnia and the 1st Infantry Division in Kosovo.

It is not the fault of our troops. They are put in places and they no longer

have combat training, so they are not capable of combat without coming out of there and training for at least 6 months.

So if we are down to 10 Army divisions because of this President, and 2 of them are rendered incapable of combat, that is 8 Army divisions. We had 19 during the Persian Gulf war. So that is what has happened to our military.

Just the other day I was very proud of Gen. John Jumper, who had the courage to stand up and say publicly that we are no longer superior in air-to-air and air-to-ground combat. Our strategic fighters are not superior to those others on the market. He stated the SU-35, as made by the Russians, is on the market right now, the open market. It is for sale. Anyone can buy it—Iraq, Iran, Syria, Libya, anybody else—and it is better than anything we have, including the F-15 and the F-16.

We have to face up to this. It is a threat from the conventional side as well as from missiles.

I will make one comment about the missiles. Again, we hang this on President Clinton. In that same veto message in 1993, President Clinton said: I'm vetoing this bill. And I'm vetoing it because it has money in it for a national missile defense system, which we do not need because there is no threat out there. Yet we knew from our intelligence that the threat would be there and imminent by fiscal year 1998. And sure enough, it was.

So here we are with the combination of all these countries out there that have every kind of weapon of mass destruction: Biological, chemical, or nuclear. Yet we have countries such as China and Russia and now North Korea that have the capability of delivering those warheads to anywhere in America right now, when we are in Washington, DC. They could fire one from North Korea that would take 35 minutes to get here. There is not one thing in our arsenal to knock it down because this President vetoed our national missile defense effort.

Now the American people have awakened to this, and we have enough Democrats who are supporting Republicans to rebuild our system and to try to get a national missile defense system deployed. Unfortunately, it couldn't happen for another 2 years, maybe 2½ to 3 years.

That gets around to the Comprehensive Test Ban Treaty about which my distinguished colleague from Illinois was talking. I think probably the best thing that could have happened to us for our national security was to defeat that. If we don't have a national missile defense system, then what do we have to deter other countries from launching missiles at the United States?

What we have is a nuclear stockpile. We have nine weapons in the nuclear stockpile. Because of the President's moratorium, they haven't been tested for 7 years. We don't know whether or not they work. I suggest it might be

better not even to have nuclear weapons than to have weapons but not know whether they work. That is exactly what we have right now. If we had passed the Comprehensive Test Ban Treaty, there would be no verification, there would be no way in the world we would have known whether or not our stockpile was working because they hadn't been tested.

I can remember quote after quote after quote by the people who were so much involved in this from our energy labs. They all said—I had the quotes; I don't have them in front of me right now—that if we can't test these nuclear weapons, there is no way we can determine whether or not they work. It is a very unsafe thing for America. These were the directors of the labs responsible for this nuclear arsenal.

So of the nine weapons we have, which I have listed here, we only have one we have adequately tested enough to know whether or not it would work. That is the W-84 warhead that we know would work.

This would have been a real disaster for America. People kept saying President Eisenhower was for a comprehensive test ban treaty, that President Bush was, that President Reagan was. That isn't true at all. This flawed treaty was a zero-yield treaty. We would only have had the word of our adversaries that they would not test their nuclear arsenals.

We keep our word in America; we don't test our arsenal. But we don't have any idea whether or not they are going to test theirs. In fact, during the course of the debate, both China and Russia said they would not comply with the zero yield. There is no way in the world we can detect that, that we would know what our adversaries were doing. That would, for all practical purposes, be unilateral disarmament.

I am asked back in Oklahoma by people who have good street sense, why is it the liberals in Congress are so committed to disarming our country, to taking our money that we are supposed to have to defend America and putting it into these various discretionary social programs? I have to explain to them that the people in Washington, and some of the Senators in this Chamber, are not like the people of Oklahoma. I think President Clinton honestly believes that if we all stand in a circle and hold hands and we unilaterally disarm, everyone will love each other and it won't be necessary to have a defense system.

That is what we are up against. In a very respectful way, I have to disagree with many of the things my distinguished colleague from Illinois stated.

I think we have had a very successful session. We have ensured a sound Social Security retirement system. We have improved educational opportunities for our children. Along this line, the major disagreement we had was that the Democrats thought the decisions should be made here in Washington; Republicans want to use the

same amount of money but not make the decisions in Washington but send that money to the school districts. The school board in Tulsa, OK, is much better equipped to know what their education needs are in Oklahoma than we are in this August body of the Senate. The Democrats say the answer is not school buses, not computers, not the physical facilities that are available; it is 100,000 teachers. I think the more we can send these decisions back to the local level, the better the people of America will be served.

I believe we have had a good session. I am not pleased with the way it is turning out right now. The old saying we have heard so many times in the past that there are two things you never want to watch while they are being made—one is sausage and the other is laws—becomes very true during the last few days of legislative sessions.

I think we have done a very good job. I think we did the right thing in defeating the unverifiable test ban treaty. I think we have passed legislation of which America will be very proud. I am anxious to end all this fun we are having and go home and tell the people in Oklahoma about it.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BUNNING). The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### EXTENSION OF MORNING BUSINESS

Mr. INHOFE. Mr. President, I ask unanimous consent that the period for morning business be extended to the hour of 2 p.m. and that the time be equally divided in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that for the next quorum call the time be divided for each side equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. WYDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN. Mr. President, I ask unanimous consent to speak for up to 15 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WYDEN. Thank you, Mr. President.

#### PRESCRIPTION DRUGS FOR THE ELDERLY

Mr. WYDEN. Mr. President, I have come to the floor of the Senate on a number of occasions recently to talk about the issue of prescription drugs for the elderly.

I think there is a particularly relevant point to make this afternoon given the very extensive press coverage we have seen on this issue in recent days.

Over the weekend, David Rosenbaum in the New York Times had an excellent article on the issue. In the last couple of days, Time magazine had another very lengthy piece on the question of prescription drugs for seniors. And both of these articles ultimately make the point that Congress probably is not going to be able to agree on legislation during this session. The authors offer considerable skepticism about the ability of Congress to come together on a very difficult issue. Both of them, to some extent, go off into what I think are secondary questions—the questions of the role of the Internet, and the question of patents on drugs. Those are important matters.

But what is central and what the Congress needs to do on a bipartisan basis is pass legislation that would make it possible for frail and vulnerable older people to get insurance coverage that would provide for their medicine.

For example, if you are an elderly widow who is 78, maybe having early signs of Alzheimer's, and you spend more than half of your combined monthly income of Social Security and pension on prescription medicine—those are the kinds of letters that seniors are sending to me—it is not going to help you a whole lot to get a 10- or 15-percent discount because you shop over the Internet. Certainly, the role of the Internet in prescription drugs is going to be important. There will be a lot of issues. But to provide relief for the Nation's older people, what Congress needs to do on a bipartisan basis is pass legislation that provides insurance coverage making it possible for older people to pay these big bills. Patient issues and the question of the Internet are matters that are important, but what is needed is legislation that provides real relief.

Part of the effort to win bipartisan support for prescription drug legislation is coming to this floor and, as the poster says, urging seniors to send in copies of their prescription drug bills. Send them to each of us here in the Senate in Washington, DC.

I intend to keep coming to the floor of the Senate and actually reading from these letters. I have three today that I think tell an important story.

One is from a senior citizen in Medford, OR, in my home State. Another is from a senior citizen from Grants Pass, OR, and a third is from a senior citizen in O'Brien, OR, all of which reflect the kind of concerns I know are out there. Hopefully, as seniors learn about our campaign and see that we are urging them to send us copies of their prescription drug bills, it can help bring about bipartisan support for legislation in the Senate.

I am very proud that I have been able to team up in recent months with Senator OLYMPIA SNOWE on bipartisan legislation. I have been of the view that nothing more can happen in Washington, DC, unless it is bipartisan. The Snowe-Wyden legislation is a bill that uses marketplace forces and unleashes the forces of the private sector in an effort to make medicine more affordable for the Nation's older people.

What is sad is that our elderly are in effect hit by a double whammy. Millions of them can't afford their prescriptions. Medicare doesn't cover medicine. It hasn't since the program began in 1965.

On top of the fact that seniors don't have Medicare coverage, when they walk into a pharmacy—I see our friend from New Hampshire, our colleague who has a great interest in health care. As he knows, when a senior walks into a drugstore in New Hampshire, Oregon, or Kentucky, and can't pay for their prescription medicine, in addition they are subsidizing the big buyers of prescription drugs. The HMOs and the health care plans are in a position to negotiate a discount. They get a break on their prices. The seniors, people who are spending half their monthly income on prescriptions, are, in effect, subsidizing those big buyers.

The bipartisan Snowe-Wyden legislation, fortunately, has been able to generate a lot of interest in the Senate. Senator SNOWE and I are proud to have the support.

For example, more than 54 Members of the Senate—more than half the Senate—are now on record saying they would support a tobacco tax to pay for prescription drug benefits for older people. That strikes me as appropriate.

Medicare spent more than \$12 billion last year picking up the costs of tobacco-related illnesses, and more than 50 Members of the Senate are now on record as saying they would be willing to support additional funding to help the vulnerable seniors from whom we are hearing.

Let me read a little bit from some of these letters because I think they sum it up. One I received in the last couple of days from Grants Pass says:

No way can I afford to pay for my medicine. I did get a refill on Pepcid.

That is an important medication this elderly woman is taking now in Grants Pass, OR.



I do hope you can do something to help us seniors.

When she writes, "No way can I afford to pay for my medicine," that essentially sums it up.

We can talk about people buying prescription drugs over the Internet; we can talk about the patent issue, both involving substantial sums of money. Whatever that person needs in Grants Pass—and the letter goes on to say she has no insurance coverage for her medicine—seniors need legislation that actually provides coverage through the insurance system to help pay for prescription drugs.

Another letter comes from Medford, OR. We can see the stack of bills going to a pharmacy in Medford, Southern Oregon Health Trust Pharmacy. This individual has spent \$1,664 recently on prescription drugs in Medicare. She is sending bills to our office. Unfortunately, she doesn't get any help through the various insurance coverages she has. This is representative of what we have been hearing. She also goes on to point out that this large stack of bills she sent me does not even include some of the over-the-counter drugs she is taking such as ibuprofen.

These cases illustrate very well why our country cannot afford not to cover prescription medicine. All of these articles, including *Time* magazine, are always questioning whether the Nation can afford to cover prescription medicine. I have contended for some time now we cannot afford not to cover prescription medicine. These bills I have been reading from on the floor of the Senate show seniors can't afford drugs that help to lower cholesterol, help to lower their blood pressure. These are drugs that help older people to stay well.

Prescription drug coverage for seniors has been a priority ever since my days with the Gray Panthers before I was elected to Congress. Frankly, it is much more important today than ever because these drugs that so many seniors write that they cannot afford today help seniors to stay well. The variety of anticoagulant drugs that help to prevent strokes, as I have commented on the floor of the Senate in the past, might cost \$1,000 a year for an older person to buy them to stay healthy. Compare that to the costs incurred if a senior suffers a stroke. If a senior cannot get an anticoagulant drug to help stay healthy and avoid a stroke, that senior might incur expenses of more than \$100,000.

The question for the Senate is, Are we going to help frail and vulnerable seniors with prescription drug coverage that will cost just a fraction of the expenses that will be incurred through Medicare Part A, the hospital portion, and Medicare Part B, the outpatient portion, if the senior cannot get help and ends up getting sick and, very often, incurring extraordinary expenses?

The third letter I read comes from a woman in O'Brien, OR. She has spent

more than \$2,000 through November of 1999 on her prescription drugs, and just in recent days she has taken on a job in hopes she will be able to pay for her prescriptions. She is 78 years old. At present, she has her Social Security and Medicare. She now has taken on a small job in hopes she will have the funds to pay for her prescription medicine. She writes that she hopes the Snowe-Wyden legislation becomes law.

Other colleagues have different approaches. We appreciate that. What is important is we move forward together. Let's show the authors of all these recent articles in *Time* magazine, in the *New York Times*, and various other publications that are skeptical about whether the Congress can tackle a big issue such as this; let's prove them wrong. Let's show, in spite of a fairly polarized political climate in America today, when there is an important program, this Congress can come together.

I will keep coming to the floor and urging seniors to send in copies of their prescription drug bills. The poster lays it out: Send their bills to their Senator in Washington, DC. The Snowe-Wyden legislation, SPICE, for the Senior Prescription Insurance Coverage Equity Act, is a bill that, on a bipartisan basis, can be supported in the Senate. If other colleagues have different ideas, let's get them out on the table. Let's come up with a marketplace approach to holding down the costs of medicine.

These bills show access to coverage is very key, but holding down the costs of medicine is very key as well. There is a right way and a wrong way to hold down those costs. The right way is to use a model such as the health care system for Members of Congress. That is what is behind the Snowe-Wyden legislation that provides choice, competition, and marketplace forces for holding down medicine.

There is a wrong way—the various approaches that call for price controls. The real danger behind price controls is that the costs for anybody who is not in the price control group will be shifted on to other Americans who are having difficulty paying for medicines as well. It would not be a particularly useful thing for the Senate to come up with a price control regime for folks on Medicare and then have the costs shifted over to a divorced woman who is 27 years old with two children who is working her head off to try to help her family and help them pay for expenses and then her bills would go up because costs would be shifted to her.

I intend to keep coming back to the floor of the Senate and reading from these bills. Today I have read accounts from Medford, from Grants Pass, and from O'Brien. Seniors cannot afford today to cover prescription drugs.

When public opinion polls are taken, coverage of prescription drugs for older people is now one of the top two or three concerns in America—not just for seniors but for all Americans; certainly for the sandwich generation. Perhaps a

young couple in their forties who have to try to provide some assistance to a parent who could not afford prescription medicine is following this issue. It is not just a seniors' issue; it is an issue for families; it is an issue for the quality of life of our country.

The Snowe-Wyden legislation is a bipartisan bill where more than 50 Senators have already indicated they will support the funding mechanism in prescription drug coverage as one way to proceed.

I am sure our colleagues have other ways to go. But what is important is to show the skeptics across this country who are writing in magazines and saying in news reports that nothing can be done that we can come together on a bipartisan basis and provide real relief for the Nation's older people.

I hope seniors will, as this poster indicates, continue to send copies of their prescription drug bills to us in the Senate, each of us in Washington, DC, because I intend to keep coming back to this floor again and again until we can secure passage of this legislation.

I do not want to see the attention of the Senate diverted to questions of the role of the Internet and patents and the variety of matters because, while they are important, they do not go to the heart of what is needed in this country. What is needed in America for the millions of seniors who are spending half of their income on prescription drugs—and that is what I have been describing on the floor of the Senate—is insurance coverage. They need coverage which will pick up that part of their insurance bill that goes for prescription drugs. That is what the Snowe-Wyden legislation does on a bipartisan basis.

We are going to keep coming back to the floor of this body to talk about the need for prescription drug coverage for the elderly. There are bipartisan proposals to do it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senate is conducting morning business until 2 o'clock.

Mr. LEAHY. I thank the distinguished Presiding Officer.

The PRESIDING OFFICER. The minority controls 5 more minutes.

Mr. LEAHY. Mr. President, I ask unanimous consent I be allowed to continue for not over 10 minutes in defense of the distinguished majority leader following an editorial in one of our papers today.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### RESPONDING TO CRITICS OF THE NORTHEAST DAIRY COMPACT

Mr. LEAHY. Mr. President, I read an editorial this morning in the *Wall Street Journal* that made incorrect

statements about both the distinguished majority leader, Senator LOTT, and the Northeast Dairy Compact. In fact, the editorial was totally, factually wrong. If the editorial writers would have checked their facts, they would have known that.

Basically, the writers used arguments of opponents of the Northeast Dairy Compact, and they used those arguments without any determination of whether they are accurate or not. This time they used the arguments to go after the distinguished majority leader and others who supported the compact. They have used the so-called facts other times, but, again, they have always used them in the same wrong arguments.

I have referred many times to the major GAO study that was issued on milk prices. I have referred to the detailed OMB study on the compact. Opponents never offer any proof for their arguments. I am fed up with the Compact being criticized as a back room deal because I remind everybody that we actually had a vote on it, albeit in the form of a cloture motion, but we had a vote on it on the floor of the Senate and a majority of Senators, Republicans and Democrats alike, voted for it. The majority voted for it this year. Now those who oppose it are using filibusters and parliamentary dodges because they know that they lost the vote.

I am fed up with opponents attacking the compact as a special interest cartel, a compact which is made up of family farms, considering the largest opponent of the compact is Philip Morris, the tobacco giant which owns Kraft. The supporters are family farmers; the opponent, Philip Morris. It does not sound as if the supporters are really a cartel.

I am fed up when opponents of the compact say milk prices are higher in New England when typically milk prices are higher in Wisconsin and Minnesota than they are in New England. The places that do not have the compact and who are attacking it the most charge their consumers more for milk on average than the area that does have the compact.

GAO did a study of this and they looked at milk prices during the first six months after the Compact was implemented. GAO found that consumers in New England were able to buy milk considerably cheaper than in Wisconsin or Minnesota. The editorial writers and opponents of the compact do not point this out. Why do they not point this out? Because it points to the success of the compact and does not support the arguments made by the cartels that are opposed to it.

Let me read some examples from the GAO report. For example: In February, 1998 the average price of a gallon of whole milk in Augusta, ME, was \$2.47. The price in Milwaukee, WI, was \$2.63, and in Minneapolis, MN., it was \$2.94 per gallon.

Take another New England city, Boston. In February 1998, the price of a

gallon of milk was \$2.54 as compared to Minneapolis, where the price, on average, was \$2.94 a gallon.

Or let's look at the cost of 1 percent milk for November 1997. In Augusta, ME, it was \$2.37 per gallon, the same average price for Boston and New Hampshire and Rhode Island. But in Minnesota, the price was \$2.82 a gallon, in other words, 45 cents more per gallon in the area that opposes the compact as compared to the much lower price in the area that has the compact.

I could go on and on and compare low New England retail prices with higher prices in cities outside of New England. I invite anybody to review this GAO report.

There is another report on the compact that was done by OMB. They issued a report which found the retail milk prices in New England, after the Compact was in place, were, on average, lower than for the rest of the Nation.

The Wall Street Journal editorial page writers have ignored both the GAO report and the OMB report. Why? These are factual and objective reports that the Journal should have reviewed.

It is clear that our compact is working perfectly by benefiting consumers, local economies, and farmers, something that is not stated in the editorial that attacked Senator LOTT.

I am especially fed up when opponents say the compact blocks interstate trade in milk when OMB reports the compact has increased the sales of milk into New England as neighboring farmers in New York, who did not have the Compact, take advantage of it. OMB reported that while the Compact was in force for the first six months, there was an 8 percent increase in milk sales into the region. Instead of blocking interstate commerce, I would say an 8-percent increase in interstate commerce is an 8-percent increase in interstate commerce.

I am fed up when opponents say the compact does not help dairy farmers stay in business, when it greatly increases their income. My best guess is dairy farmers, just as wheat, corn, or soybean farmers, when their income increases, they are more likely to stay in business. I recognize the Nation's major opponent of the compact, Kraft, owned by Philip Morris, does not want farmers to have the additional income the compact provides. But opponents of the compact should not argue it does not give farmers more income when, in fact, it does.

Opponents of the compact say farmers in Wisconsin and Minnesota are going out of business, even though this is comparing apples with oranges. Even though the compact doesn't have an effect on them, they say we should not have a compact in the Northeast. Let farmers in the Midwest set up their own compact. I would vote for a compact for them or any other reasonable proposal that helps their farmers. Do not condemn one section of the country that is doing fine and protecting

their farmers when, if they wanted to, they could do exactly the same thing in their own part of the country.

I wish to mention for a minute what the compact replaces. Opponents of the compact prefer prices to be set by Federal bureaucrats. Supporters of the compact prefer pricing to be determined by consumers and local representatives, not by the Federal Government. The Governors and legislators in the six New England States had five goals in mind when they enacted the compact into law in each of their States. They wanted to assure fresh local supplies of milk to consumers at lower prices than found in most of the Nation. They wanted to keep dairy farmers in business. They wanted to protect New England's rural environment from sprawl and destructive development, and they wanted to do this without burdening Federal taxpayers.

The Northeast Interstate Dairy Compact has delivered beyond the expectations of those Governors and State legislatures. The compact provided an added benefit. It has increased interstate trade into the region as neighboring farmers have taken advantage of the compact.

This great idea, coming from those six New England States, has created a successful and enduring partnership between dairy farmers and consumers throughout New England.

Thanks to the Northeast Compact, the number of farmers going out of business has declined throughout New England for the first time in many years.

It is unfortunate that some still favor Federal bureaucrats running this farm program. We ought to instead be blessing this compact. Here is something not run by the Federal Government, not costing the taxpayers anything, but being done by the people who are affected by it. Indeed, half the Governors of the Nation, half the State legislatures in the Nation, asked that the Congress allow their States to set their own dairy policy through interstate compacts that cost taxpayers nothing. It costs taxpayers nothing. Let me say it again: It costs taxpayers nothing. Why do people oppose a program that is not costing taxpayers anything and affects just the people in the region who want it?

This dairy compact passed with overwhelming support in almost all these States—Republicans and Democrats in the legislatures; Republican and Democratic Governors. Major environmental groups have endorsed the Northeast Dairy Compact. A New York Times and National Geographic article discussed the importance of keeping dairy farmers in business from an environmental standpoint.

Consumer prices are lower, farm income is higher, and no increased costs to taxpayers. One wonders, why does anybody oppose it?

One asks, why is it opposed? The answer is simple: Huge milk manufacturers, such as Suiza, headquartered in

Texas, Kraft, which is owned by the tobacco giant Philip Morris, and other processors represented by the International Dairy Foods Association oppose the compact because they want to keep the money themselves. They do not want the farmers to have any of these profits.

Even the most junior investigative reporter could figure out the answer. All anyone has to do is look up the donations made by these and other giant processors. All the negative news stories about the compact have their genesis in the efforts of these giant processors and their front organizations.

I say this again on the floor, just so people understand, because it was an unfair editorial in singling out the distinguished majority leader of the Senate using facts which bear scrutiny. Indeed, one of the corporation front organizations, Public Voice for Food and Health Policy, apparently could not continue to exist when it was obvious that their policies were determined by corporate dollars rather than good policy. They had to close up shop when they lost their conscience.

I have detailed the close alliances between their lead executive who handled compact issues for them and the job he negotiated to represent the huge processors a couple of times on the Senate floor.

I will give the press another lead on the next public interest group whose funding should be investigated—the Consumer Federation of America. Indeed, one of their officers—formerly from Public Voice—is being taken around Capitol Hill offices by lobbyists representing processors. A glance at who funds their functions and efforts will be as instructive as investigations of Public Voice.

Why should Philip Morris or Kraft want to use these organizations instead of directly going to the editorial boards of the New York Times or the Washington Post to badmouth the compact? The question does not need me to provide the answer.

What would be the best attack—whether true or not—on the Compact that might swing public opinion?

It might be to simply allege that milk prices are higher for children in the school lunch program. Who would the editorial boards more likely listen to regarding school children: a public interest group or a tobacco company?

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, are we in morning business?

The PRESIDING OFFICER. We are.

#### INTERNET TAX MORATORIUM

Mr. GREGG. Mr. President, today marks the 1-year anniversary of the Internet tax moratorium and the setting up of a commission to look into the manner in which we tax the Internet. This moratorium was to last for 3 years, and the commission was to meet and begin the process of trying to de-

termine how best to deal with the variety of proposals to place taxes on the use of the Internet, products which are sold over the Internet, and services which are supplied over the Internet.

Obviously, the Internet represents a watershed mark possibly in history as to economic activity. It is a period in which we have seen the Internet become an economic engine of immense proportions for our Nation and for the world. The Wall Street Journal reported on October 18 that electronic commerce not only positively affects economic activity but has had a very positive impact on reducing the rate of inflation.

Products sold over the Internet are actually forcing down prices as competition occurs and products, such as prescription drugs, have been found on the Internet to be 28-percent cheaper and apparel 38-percent cheaper. The overall index found that products generally were about 13-percent cheaper on the Internet. The Internet has not only been a wonderful economic engine; it also has been a force for maintaining and controlling inflation during this period of dramatic prosperity.

Of course, the Internet is growing at an incredible rate. Over the last 12 months, Internet economic growth has been about 68 percent, which is a huge rate of growth compared to a national economic rate of growth which is somewhere in the 3- to 4-percent range, if we are lucky. The role of the Internet in our society is immense today and is getting even more significant.

The question is, How do we deal with it in the context of taxes? There is a large number of communities and a number of States in this country that wish to assess on Internet transactions their local sales tax activity, much the same as they attempt to assess catalog sales. There are something like 30,000 jurisdictions which could assess taxes on the Internet.

The effect, of course, of having this diffuse and extraordinarily large group of taxing authorities—50 States and 30,000 subjurisdictions of those States—with a potential of taxing the Internet at various rates could, quite simply, grind to a halt this wonderful engine of economic activity and prosperity into which our Nation has gone.

Literally, if we allow the Internet to be subject to this variety of taxes and this variety of tax authorities, and the imagination and creativity we always see from various Government entities when it comes to taxing, literally we could end up stopping the Internet as an effective force for economic expansion and prosperity.

Furthermore, the concept of taxing the Internet, which is clearly a national and really a global instrument of commerce, appears, to me at least, to fly in the face of our Constitution. The commerce clause of our Constitution is pretty specific. Section 8, clause 3, of the Constitution reads:

The Congress shall have Power . . . To regulate Commerce with foreign Nations, and

among the several States, and with the Indian Tribes.

There can be nothing that is a form of commerce more among the several States than the Internet as it presently is expanding, growing, and becoming a force for economic activity.

Thus, the taxing of the Internet by all these different entities would clearly, in my opinion, raise serious constitutional problems. In fact, the Supreme Court addressed this issue when it came to catalog sales in the Quill case, where the Supreme Court essentially ruled that States, unless they have a nexus relationship with the seller of the assets, do not have traditionally the ability to tax that transaction.

Secondly, Congress needs to look at the issue of taxation because of the extraordinary, as I have mentioned, chilling effect it would have on commerce generally. We, as a nation, as the creators and inventors of the Internet and, therefore, controllers not only of the initial and expanding technology, but also of the language which dominates the Internet, have put ourselves essentially as a nation on a rocket sled of economic activity. We have expanded and accelerated at an extraordinary speed past the rest of the world towards economic prosperity.

I recall, rather vividly, in the late 1980s when the "woe is me" crowd was saying that Japan was going to overtake the United States in all functions of economic activity, and that our economic model for prosperity simply could not compete with the Japanese economic model of prosperity, which was intimidating and which remains significant.

But the fact is that it did not work out that way. It did not work out that way because America's strength is our entrepreneurship and our inventiveness. We took that entrepreneurship and inventiveness and we created this massive new vehicle for economic activity called the Internet. Thus, instead of being overwhelmed by our friends and neighbors and allies in the industrial world, we have, instead, exploded past them in the ability to produce prosperity and economic activity, in large part because of the Internet and the offspring of technology which it has created.

So we do not want to do anything which jeopardizes the unique and special international lead that we have in this area. Yet allowing thousands of different jurisdictions to tax the Internet would do exactly that. It would jeopardize that lead and undermine and, as I said, possibly bring to a complete halt the use of the Internet as an element of commerce.

The third thing we must be sensitive to in this area of the Internet is the international implications beyond the questions of trade. It has been suggested by people at the U.N. that the U.N. should start to fund itself by putting in place a tax on e-commerce and e-mail. At first it was an outrageous suggestion, but it is the type of suggestion you get at the U.N. from people

who represent nations which maybe do not have as much of a financial interest in it as we do and know that we would end up paying the tax, our Nation would end up paying the burden. But the fact that has been suggested is just a sort of crack of the door behind which, if it were fully opened, you would see an international initiative of significant proportions to place taxes on the Internet.

As a result, if we have essentially come to the table, having already soiled our hands with taxing the Internet, it will be very extraordinarily difficult for us to resist, whether it is the U.N. or whether it is some other nation that also tries to pursue this course of action. It is essential, for the purposes of seeing an expansion of this technology and this form of economic activity, that we dampen down and restrict and as aggressively as we can resist having other nations pursue the path of taxation of Internet transactions.

Obviously, the U.N. has no right to step into this ground. In fact, as chairman of the appropriating committee that has jurisdiction over the U.N., I put specific language into an appropriations bill, which hopefully will pass today, that says the United States will not spend any money at the U.N. should the U.N. pursue this course of action, which I am sure they will not. This was some idea put forward by somebody there, but I do not think it speaks to the majority at the United Nations.

But those are three core reasons why we have to be extraordinarily sensitive to what the tax policy is relative to the Internet.

The reason I raise this is because it took 8 months for the Internet commission to get started. That was not their fault. Really, it was the fault of those bodies which had the obligation of appointing membership to the commission. Actually, under Governor Gilmore, this commission has done an excellent job of meeting. Governor Gilmore's position relative to taxation over the Internet is exactly the position that should be pursued. However, I am not sure he has a majority position within the commission. I hope he does.

But in order for us to assure this threat to our commerce does not occur, I believe we should extend this moratorium. Since we had at least 8 months of delay before we got this commission up and running, I think we should have an extension which recognizes that the commission should have the full 3-year period; therefore, we should extend the moratorium for another year, at a minimum, on the Internet.

I happen to think it should be extended beyond that, well beyond that, because I believe certainty in the area of taxation is one of the key issues for maintaining economic activity. If people participating in an economic activity can predict what their tax obligations are and what the tax implications will be to an economic initiative, then

they are much more likely to be willing to invest capital and take the risks necessary to pursue that initiative. But if they cannot predict their tax liability, then that limits and dampens down the desire to put capital and take risks in a certain economic activity. We have seen that historically.

So I do believe very strongly that we should not only be extending this moratorium for a year but that we should be extending it for a series of years beyond the 3-year moratorium that presently exists.

Let's face it. The economic benefit which this Nation has seen as a result of this truly revolutionary event—in the history of economics, I suspect this is going to go down with the industrial revolution as one of the most significant turning points in the history of prosperity and the way nations generate wealth.

The benefits which we, as a nation, have obtained as a result of this, as a result of being the incubator, the developer, and now the provider in expertise in the area of the Internet, and the use of the Internet for commerce, the benefits which we have received, as a nation, are basically incalculable: the amount of new jobs which have been created; the number of people whose standard of living has been increased; the number of people who have been able to purchase goods at less of a price; and the number of people who have simply had a better chance to participate in prosperity.

The Nation as a whole has seen economic activity and economic prosperity that has been a blessing to everyone, in large part because of this huge expansion in e-commerce and in the Internet as a force. Those benefits dramatically exceed any benefit which we would obtain by allowing a large number of different States or municipalities to start taxing the Internet for the purposes of expanding their local governments.

It is the classic situation of the goose that lays the golden egg, to say the least. We have confronted a goose that is laying a lot of golden eggs for America, and for the prosperity of America, and for the opportunity of America to create jobs. For America to maintain its place as a world leader, we should not make the mistake of maybe not cutting off the goose's head but nicking that goose with thousands of different taxes which may cause it to, unfortunately, stumble or even be stopped as a result of allowing the creativity and the imagination of our various government units across this Nation to begin to tax the Internet.

So I hope as we wrap up this session we will consider this. Obviously, we probably are not going to get it in this major omnibus bill, although I tried to do that and it was rejected in committee—an extension of the Internet moratorium.

I do hope when we come back next year this will be a priority item—to make it clear, to make an unalterable

statement to the community which is developing and promoting this incredible engine of prosperity that we are not going to stop them by turning loose the forces of government and taxation on them.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

#### EXTENSION OF MORNING BUSINESS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the period for morning business be extended to the hour of 2:30 p.m. and that the time be equally divided in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I yield myself such time as I may consume, or whatever.

#### THE NORTHEAST DAIRY COMPACT

Mr. JEFFORDS. Mr. President, I will take a moment to react to an editorial which I read this morning in the Wall Street Journal which had so many errors and erroneous comments that it shocked me to find out that such a fine newspaper as the Wall Street Journal would carry this.

I have been in Congress now 24 years, and as a result of unusual circumstances, for many years I had been sort of the leader of dairy for the Republicans in the House. That occurred because I was elected during the Watergate year. During the Watergate year, there were 92 freshmen Representatives who were elected and only 16 were Republicans. So all of us who came in that year immediately got seniority because there were not any other Members around.

I got to be the ranking member on the dairy subcommittee my first year. During that time, some 24 years, one thing I could be assured of was that any time something was going to come to the benefit of the dairy farmers, the Wall Street Journal, the New York Times, and the Washington Post would all write adverse editorials. Why is that? Well, do the dairy farmers buy any advertising in these newspapers? Of course, they don't. Who does buy the advertising? It is those who purchase milk. What is their motivation? To keep the dairy farmers getting the least money possible so they can maximize their profits. And they have done a masterful job.

But they also have a propensity, either because they, without any checking, believe everything told to them by the processors who pay for their ads or they just ignore the truth. The Wall Street Journal article of this morning was a very typical example. I will run through some of the facts that were utilized in this great paper to point out the errors.

First of all, they make statements which are just not true. They say we have to have a compact because our

farmers are less efficient than the Midwestern farmers. Well, that is absolutely not true. Both are very efficient. The differences in the two areas are dramatic, but they are not relative to efficiency. Obviously, the Midwest farmers have an advantage because they are closer to the grain markets. They have more people producing cheese, and they have soils that are preferable to many of the other areas of the country, especially New England. So they have an advantage, not a disadvantage, by being not only efficient—and I don't think our farmers are any more efficient than theirs—but having lower costs to start with. So to make the statement that it is all based upon inefficiency is absolutely ridiculous.

Then this statement: Never mind that this milk costs consumers to the tune of about 20 extra cents a gallon. This is absolutely false. In fact, one of the ironic aspects of this whole argument occurred back when the compact first went into effect and the Midwestern farm representatives said: We will show them. We will show that this is all due to efficiency and all those kinds of things. So they asked OMB, not GAO or whoever else. Why? Because OMB was sympathetic to the administration at that time and they wanted help from the White House to try to back up their arguments.

Well, what happened? OMB did an analysis of the impact of the compact and found out just the opposite. Do we hear them quote that anymore? No. I have to bring it up every time. They still—either their friends in the newspapers that make the money off advertising or sometimes they do it themselves—ignore the fact that the study they asked for came back saying that, contrary to what they were telling people, actually the consumers in New England, where the compact was in effect, paid 5 cents less a gallon—not 20 cents more a gallon, 5 cents less a gallon—than the average in the rest of the country. But they still print something which they know is absolutely incorrect.

Also, for a conservative newspaper such as the Wall Street Journal—I wouldn't give that same label to the New York Times and the Washington Post—the Wall Street Journal should recognize that all of these States, all six States, are taking advantage of the Constitution which says that States can, if they want to, ask Congress for permission to create a commission to allow them to join together to sort of control or impact interstate commerce.

Well, the States have the right to do that and the States did do it. The New England States got together and said: Well, let us take a look and see what we can do to have a more organized pricing system. One has to understand a little bit about how the farming goes. If you are a dairy farmer, you have milk and you have to get rid of it. It is going to last about 3 days before you

will have to throw it out. So you are at the mercy of the market. You can form cooperatives and things such as that, but no matter what you do, the milk has to go somewhere or it is going to spoil.

The thought was, instead of leaving ourselves at the mercy—and this is the basic part of the situation—of the processors, the people who buy the milk, who can sit there 2½ days and say: Well, it is going to be worthless tomorrow; I will give you 5 cents a gallon—well, it never gets quite that bad, but that is the kind of power they have. They don't want to lose that power. They want to be able to dictate to the dairy farmers the price they are going to get. The New England farmers got together and worked with their various legislators and decided, why don't we set up a commission that would have consumers represented, processors represented, farmers represented, and the general interest of the public represented. We will set what the price will be, keeping in mind that we don't want to end up with a huge surplus. We want to make it fair but make sure the consumers don't lose on this—in fact, maybe even gain—and the dairy farmers will gain because they will have a stable market situation.

It worked so well that, as I said, the price to consumers actually went down. I could speak at length on that, but it went down. The farmers got a significantly better price overall. They were happy. The processors got a fair price, and they haven't screamed, those that are participating in it. It is a good system. That is the problem with it. It is a good system.

Why does that scare the processors? They would rather get the lowest price possible to pay to the farmers and so they have lost that control. But to the Midwest, it shakes them up because what was their dream? Their dream was that all of the dairy farmers in the United States would go out of business except in the Midwest. And they are so sure they could provide all the milk the country needs, so why do we not put them out?

Well, the commission worked. The price to consumers has gone down, the farmers are getting a fair price, and the processors are not being injured in any way. That is why 25 States, now a total of 25, including New England, have said that is a great idea. Everybody is happy. What a wonderful situation.

The processor is happy, consumers are paying less in price, and everybody is happy. So why don't we join? Well, that, of course, has now made it a big threat to the Midwest. Because if the whole country goes to compacts, the farmers will stay in business, and the market expansion that the Midwest was hoping for won't occur.

That is why we are here today. The States have recognized that it is essential to make sure their farmers survive. Why is that? The basic concept of the law right now, from the 1930s and

rewritten in the Farm Act of 1947, said it is critical that we ensure that every area of this Nation has an adequate supply of fresh milk. That is basic law; that is, to make sure that when you go to your store, there is always some fresh milk for you there. That is the basic law. All these States that are going into compacts are saying: We want to make sure that our area of the country has an adequate supply of fresh milk, and we ought to be able to do that. So that is what the real fight is about.

We have already had the editorial I anticipated in the Post. The Wall Street Journal came through right on time with one I anticipated. Theirs is so incredibly inaccurate in what they cite, it was a little embarrassing, on behalf of the paper, to read that. I expect the New York Times will follow suit probably in the next couple of days.

I want to make sure these facts are out there. What this Nation needs is stable farming. We all love our farmers. I can't think of Vermont or New England without the cows on the hillside. I can't think of what the Southeast would be without the ability of their farmers to produce milk. And they have, because of the weather situation and all, special problems in the Southeast, being able to produce milk at reasonable prices. But they are doing very well. They want to form a compact. The same is true in other parts of the country. What is wrong with people in the region getting together and deciding how to do it?

Another argument raised, which will be one for other editorials, is that it causes higher prices for WIC—Women, Infants and Children—and food. That is all taken care of by the commission. Farmers in the Midwest, right now, on an average, receive significantly more in the checks they get on a weekly or monthly basis—what they call the "mailbox price." They do better than the rest of the country. So they are not the ones suffering. They have advantages, as I pointed out, in cost of production and those things. They are doing well. They just want to be sure they can perhaps have a better future by shipping more milk.

Incidentally—and I will leave you with this because the statements are that this is somehow infringing on commerce and the ability of people to sell—they can bring their milk down now and sell it in the New England area. Why don't they? It costs too much to ship it down there. But the market is open; it is not closed out. There are no barriers built up to where the farmers can ship milk. In fact, the New England compact is in place right now, but a great deal of the milk comes from New York, Pennsylvania, New Jersey, and wherever else anyone wants to ship it.

The New England area itself is a negative producer. So we depend upon milk coming from other areas. When you come in, you know you are going

to be bound by the price that is established by the commission. That, again, represents consumers, producers, the dairy farmers, the processors, the people who buy it, and it protects programs such as WIC. It is working so well. That is the problem.

Just remember, the reason for all the controversy right now is that this program is working so well for consumers, processors, and the producers, and it is a danger to those who want to do away with our local farming businesses.

Mr. President, I see no other Member present, so I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. VOINOVICH). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I ask unanimous consent that I be permitted to proceed as in morning business for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Thank you Mr. President.

Mr. President, I rise today in strong support of the reauthorization of the Northeast Dairy Compact. I am pleased that it appears Congress will accomplish this vital task before we adjourn for the year.

The reauthorization of the Compact is more critical now than ever before. The U.S. Department of Agriculture recently predicted that milk prices for dairy farmers will be reduced 40 cents per gallon in December as a result of the announced drop in the basic formula price this past week. This translates into a 30 percent reduction in blend prices in December and will continue on into next year with additional declines in prices expected throughout the winter. The Dairy Compact will blunt the 40 cent per gallon drop in farm milk prices by one-half and will, by itself, make the difference between continuing in business and closing down for many small dairy farmers.

The Northeast Dairy Compact is a proven success and is critical to the survival of dairy farmers in Maine and throughout New England. The Compact has a proven track record of quantifiable benefits to both consumers and farmers. The Compact works by simply evening out the peaks and valleys in fluid milk prices, providing stability to the cost of milk and ensuring a supply of fresh, wholesome, local milk. The Compact works with market forces to help both the farmer and the consumer. As prices climb and farmers receive a sustainable price for milk, the Compact turns off. When prices drop to unsustainable levels, the Compact is triggered. The Compact simply softens the blow to farmers of an abrupt and dramatic drop in the volatile fluid milk market.

It is important to reiterate that consumers also benefit from the Compact. Not only does the Compact stabilize prices, thus avoiding dramatic fluctuation in retail cost of milk, it also guarantees that the consumer is assured of the availability of a supply of fresh, local milk. Let's remember that under the Compact, New England has lower retail fluid milk prices than many regions operating without a Compact.

Moreover, the Compact, while providing clear benefits to dairy producers and consumers in the Northeast, has proven it does not harm farmers or taxpayers from outside the region. A 1998 report by the Office of Management and Budget showed that, during its first 6 months of operation, the Compact did not adversely affect farmers from outside the Compact region and added no federal costs to nutrition programs. In fact, the Compact specifically exempts the Women, Infants, and Children (WIC) program from any costs related to the Compact.

The reauthorization of the Northeast Dairy Compact is also important as a matter of states rights. We often hear of criticism of the inside-the-beltway mentality that tells states, we here in Washington know better than you, even on issues traditionally under state and local control. Mr. President, that is wrong. In the Northeast Dairy Compact, we have a solution that was approved by all the legislatures and governors of the New England States. It is supported by every state commissioner in the region and overwhelmingly—if not unanimously—by Northeastern dairy farmers. We in Congress should not be an obstacle to this practical, workable, local solution.

I urge my colleagues to refrain from holding up this critical measure for Maine and for our Nation's dairy farmers. To small farms in my State and in states throughout New England, this is not just a matter of profit margins; it is a matter of their survival.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that I be able to speak in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### JUVENILE JUSTICE BILL

Mrs. FEINSTEIN. Mr. President, today is November 18. It has been almost 6 months since the Senate passed the juvenile justice bill and more than 5 months since the House followed suit with its own legislation.

Since that time, the students at Columbine High School went home. They

spent a summer trying to heal the wounds of one of our Nation's greatest tragedies, and they returned to school more than 2 months ago.

Many of those students touched by the tragedy even came to Washington to plead for our help. Yet this body has done nothing to stop future incidents of gun violence and nothing to fix our broken juvenile justice system.

The Columbine incident shocked this Nation and, I believe, this Congress. Watching events unfold on television made even the most skeptical observers realize that something should be done about gun violence. We have witnessed a number of other instances of gun violence in the media since then. In Atlanta, we saw a depressed day trader gun down his family and colleagues. In California, a bigot killed a postal worker just because he was Filipino, and then wounded five others in the North Valley Jewish Community Center in Granada Hills. Again, the pictures of those young children being led away from the scene of the tragedy were heart wrenching.

But since Columbine, more than 2,000 more children have died from gunshot wounds, about 12 to 13 a day, in incidents of gun violence that go relatively unreported and with outcomes not so public. These incidents will never stop until we do something to stop them. The death rate will never be diminished unless we stand up and take action.

When will the Congress realize that the time has come to move forward? The conference committee, which was appointed at the last minute before the August recess, has met but once, over 3 months ago. No issues have been resolved. The entire juvenile justice bill remains in doubt, in limbo.

Democrats in both Houses have been ready and willing to meet for months. Democrats are ready to discuss the merits of our differences and to reconcile them. The time has come to stop running away from the issue of gun violence. The time has come to enact some meaningful provisions to stem this tide of violence sweeping our schools and to institute some much-needed change to the system of juvenile justice in this Nation.

The Senate spent more than a week in May debating and voting on dozens of provisions to stem the tide of youth violence in this country and to try to curb the flood of guns reaching children and criminals. But still we have faced delay after delay, and the delays come in many forms—political maneuvering, parliamentary tactics; for example, my clip ban was blue slipped, and other tactics.

Enough is enough. It is time to come together to make some tough decisions and move forward with the Nation's business. No longer can we stand by, and I hope the Nation will not let us stand by, to allow the National Rifle Association to dictate the legislative needs of this Congress. The future of this bill rests squarely with the Republican leadership in both the House and

the Senate. They have said they want to make progress with our gun laws, and they have it within their power to do so.

The Senate-passed juvenile justice bill is not an overreaching statement of where we want to go with gun control. I, for example, believe we should have universal registration and licensing of firearms, and in the next session I will introduce my legislation. I believe we should allow the Federal Government to set safety and consumer standards for guns, and I believe we should ban outright possession of military-style assault weapons. But none of these measures were even discussed in the Senate debate.

The provisions, rather, are very small in our bill. They are reasonable, and they can make a difference in the lives of our children. None of them are controversial, and every one of them, by virtually every poll, has a dominant majority of the American people supporting them. Let me describe what I am talking about.

That bill contains just four commonsense provisions to address gun violence. Does anyone in this Nation truly believe juveniles should be able to buy assault weapons? The answer is going to be no. That is one provision in Senator ASHCROFT's bill which would prohibit juveniles from possessing assault weapons.

Does anyone in this country truly believe the children from Columbine who went to a gun show and bought two assault weapons as juveniles with no information, no data check, no nothing—does anyone believe that loophole should not be closed? I do not believe so.

In Memphis, TN, not too long ago, a 5-year-old took a pistol off his grandfather's bureau and brought it to kindergarten to kill the teacher because the teacher had given that child a timeout the day before. Stories are legion about children mistaking real guns for play guns and shooting their friends.

The third provision is simple. It would require a safety lock with every gun sold. Does anyone believe guns should not be sold without safety locks? I do not believe so.

Finally, there is my provision which would plug a major loophole in the 1994 assault weapons legislation. That legislation, in fact, says you cannot today manufacture, transfer, sell, or possess a clip, drum, or strip of more than 10 bullets manufactured in the United States. That is the law today. The loophole is to permit the foreign importation of these clips, and they are coming into this country by the tens of millions with literally tens of thousands of them in drums of 250 rounds. They come in, as a matter of fact, from the United Kingdom, and they come in from 20 different countries throughout the world.

My provision would simply close that loophole and prohibit the importation. It actually passed the House by unani-

mous consent, and both the Speaker and the chairman of the House Judiciary Committee have assured me personally that they see no problem with it and would support it.

These are the four provisions relating to guns. Other than that, this bill contains countless provisions to stem the tide of youth violence. I sit on the Judiciary Committee. I have worked on this bill. I have worked on it with Senator HATCH. Part of this bill is a gang abatement act. It provides a Federal helping hand to local law enforcement agencies to fight criminal street gangs that are now crossing State lines and moving into so many of the cities of our Nation. You, Mr. President, were mayor of a great city. You know this to be the fact. This is an important part of this legislation.

It also contains the James Guelff Body Armor Act which contains reforms to take body armor out of the hands of criminals and put it in the hands of police. It is named after a San Francisco police officer by the name of James Guelff who went to a call at the corner of Pine and California Streets and came across a Kevlar-clad sniper with thousands of rounds of ammunition and a number of guns. He had a .38 revolver. As he speed loaded his revolver, this officer was shot in the head and killed. It took 150 police officers to equal the firepower of one sniper clad in Kevlar with high-powered weapons.

The Senate bill also establishes a new \$700 million juvenile justice block grant program for States and localities, representing a significant increase in Federal aid to the States for juvenile crime control programs. These programs include additional law enforcement and juvenile court personnel, juvenile detention facilities, and prevention programs to keep juveniles out of trouble before they turn to crime, something both of us know, as past mayors, is vital if we are going to reverse juvenile crime in this country.

The bill encourages increased accountability for juveniles, and it implements a series of graduated penalties that ensure that subsequent offenses are treated with increasing severity, so that if you are going to be a continuing offender, the sentences are going to reflect that.

The bill also reforms juvenile record systems through improved record keeping and increased access to juvenile records by police, courts, and schools, so that a court or school dealing with a juvenile in my State, California, can know if they have committed violent offenses in Arizona, or a juvenile in your State, Ohio, had committed violent offenses in another surrounding State.

It extends Federal sentences for juveniles who commit serious violent crimes.

All of these commonsense provisions now remain in legislative purgatory. I am here to urge, once again, the majority to proceed with the conference, come to a compromise, and move this

bill. That compromise should preserve intact the Senate-passed gun control legislation—four targeted measures—commonsense, reasonable; I call them no-brainers. Every poll shows a dominant majority of Americans supporting each of these. And they represent together a bare minimum of what we should do this year to stem the gun violence that is increasingly common on our streets and in our schools.

School has now been back in session for several months, and this Congress is about to adjourn for the year. So far, it looks as if we are going to be receiving a failing grade from the American people. There is still time to buckle down, to do the work, to pass the test that this Nation gave us so many months ago. What a wonderful Christmas gift it would be for the people of America.

I thank the Chair and yield the floor. The PRESIDING OFFICER (Ms. COLLINS). The Senator from Montana.

Mr. BAUCUS. Madam President, I ask unanimous consent to speak as in morning business.

Mr. BYRD. Reserving the right to object, and I will not object, would the Senator mind stating how long he wishes to speak?

Mr. BAUCUS. I would be very happy to tell the Senator. Less than 10 minutes.

Mr. BYRD. I have no objection. I thank the Chair and thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. I thank the Senator.

#### SATELLITE TV ACCESS TO NETWORK PROGRAMMING

Mr. BAUCUS. Madam President, I would like to make a few remarks about a serious problem for people in our country who do not live in our Nation's cities; that is, the loss of satellite TV access to network programming.

We all know that modern technology has made it possible to broadcast TV programming directly from satellites. Nationwide, over 11 million households subscribe to satellite TV. That number increases by over 2 million households every year.

Rural areas have come to depend on network coverage that satellites provide.

In my State, Montana, where over 35 percent of homes depend solely on satellite broadcasting for their TV reception, obviously this development has been a real boon.

While satellite broadcasting has improved the quality of life for folks in rural America, it has not been perfect. Satellite systems have not been able to carry local broadcast stations. So local viewers have not always been able to get local broadcasting.

This is not just a problem for satellite subscribers; it is a problem for local television broadcasters and for the fabric of local communities. Local



broadcasters play a key role in our communities. They provide local news, local weather, and public service programming.

Viewers depend on these local broadcasts to find out what is going on in their community: When the school board, the PTA, and the city council are meeting, or when there is a parade or a fundraiser for their church or a civic group.

Local broadcasters are vital to our communities. They provide jobs, and they allow local businesses to grow through advertising. In short, the importance of local broadcasting is evident in all parts of community life.

Local broadcasters also provide network programming: NBC, ABC, CBS, and FOX. Nineteen of the 20 TV stations in Montana are affiliated with some of these networks or with PBS. These stations air national news, sports, and entertainment at times of the day when people with jobs and kids can watch them.

Without local broadcasts, you might miss the evening network news because it comes on before you get home from work or because it airs late at night. People want local network coverage because it works in their own lives and in their local community.

Until now, technology has not provided for rebroadcast of local signals by satellites. Many rural residents have not been able to get decent reception over the air.

Of course, we in the Senate cannot change technology or geography, but what we can do is change the law. We can make local-into-local broadcasting a reality, and we should.

Last spring, we passed H.R. 1554. At the time, we neglected an important responsibility. The language we passed would have required the turnoff of network programming to many rural satellite viewers. It would have done nothing to help the many local broadcasters in smaller cities and towns. It was an oversight.

Following the vote, I wrote a letter to the conference asking they pay attention to the needs of the many viewers, communities, and stations that had been ignored. Twenty-three of my colleagues, from both sides of the aisle, signed the letter.

As you know, Madam President, the conference on the satellite bill has paid little attention to our request. The language of the conference report, now titled the "Intellectual Property and Communications Omnibus Reform Act of 1999," includes some important new provisions.

It does allow satellite viewers in poor reception areas, the so-called "grade B contour" viewers, to continue to get network programming from satellites. Without this, many satellite viewers will lose their network TV at the end of next month.

It also includes a loan guarantee that will make it possible for all local stations to broadcast on satellite, not just those in the very largest cities and towns.

Without this, the other local-into-local provisions of the act are an empty promise to rural and small town America that depends on satellites.

Last week, the House passed the conference language by a near unanimous vote. But in the Senate, a few Members—and I might say, on the other side of the aisle—are blocking a vote on this conference report. They say: We promise to have more hearings. We should have another committee look at this.

They might as well say: Let them watch the radio.

The Senate should act now to ensure that the conference report language becomes law. It is clear the majority of the Senate is ready to vote to approve the measure, just as the House did. Instead, we are offered a weakened version attached to the omnibus appropriations bill, which we will get sometime soon, and a weak promise to do something next year.

This is a no-brainer. There are many people in rural America who would like to add satellite TV, network programming from their local stations. It is that simple. We have it within our power today to very simply pass a provision and provide for the financing, a loan guarantee. We all know it is going to pass. We all know we are going to do it. But there is one Senator who wants it in his committee. And I say, that one Senator represents a State where there are a lot of people who I think want local-into-local broadcasting from the satellites.

There are millions of Americans who depend on their satellites and want local network coverage—not national network coverage—or at least the option to get both local and national.

This is a no-brainer. I get more mail on this subject than any other subject. I daresay, Madam President, you probably get a lot of mail on this subject, too. I know a lot of Senators probably get as much mail on this one subject as any other. And we can simply solve it today very easily. It makes no sense for us not to.

Madam President, I yield the floor.

#### NOMINATION OF T. MICHAEL KERR

Mr. NICKLES. Mr. President, I want to make a few comments regarding the nomination of T. Michael Kerr to be Administrator of the Wage and Hour Division of the Department of Labor. I held up this nomination until I could secure an agreement regarding the issue of unauthorized break time from the Secretary of Labor, outlined in a letter I will submit for the RECORD.

The need for this agreement with the Secretary was precipitated by a case pending before the Wage and Hour Division regarding an employee exceeding the allotted time for a rest/period break, and an employer deducting from the employee's compensation the time taken in excess of the break time.

The Fair Labor Standards Act does not require employers to provide its

employees with a rest period/breaks. Nevertheless, many employers offer short breaks to their employees. Although the duration of a voluntary break is up to the employer, the breaks generally run between 5 and 20 minutes.

The Department of Labor does recognize that employers have the flexibility to determine the number of breaks and the length of breaks that they offer to their employees. The Department of Labor has taken the position that when an employer allows its employees to take a short break and an employee abuses the break time policy by exceeding the time that the employer allotted for the break, the employer must still compensate the employee for the first 20 minutes of the break.

Further, the Department of Labor has taken the position that if an employer offers its employees a compensable break of less than 20 minutes in duration, and an employee's break time exceeds the time that the employer allotted for the break, then the employer's only recourse against the employee is disciplinary action (such as a reprimand or termination), or elimination of the rest period.

Under the agreement I reached with the Secretary, the Department of Labor will conduct a complete review of its policy regarding unauthorized breaks. That review will be completed by February 1, 2000. Upon completion of the review, the Department of Labor will submit its findings in writing to the Chairman and Ranking Members of the relevant committees in the House and the Senate. The review will include consideration of what outcome is in the best interest of the employee if the employee exceeds the allotted time of a rest period/break: disciplinary action against the employee (such as a reprimand or termination); elimination of the rest period/break option; or deductions of compensation for the time in excess of the allotted break time.

Also, the Secretary committed the Department of Labor will assure that the resolution of any cases in which unauthorized break times are at issue, will be consistent with the findings in their review.

This is an important review of what is clearly an outdated policy. I look forward to the outcome of their review, and I thank the staff at the Department of Labor for working in good faith with my office, and the Secretary for working to a quick resolution of this issue so this nomination can move forward.

I ask unanimous consent that a letter from the Secretary of Labor be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SECRETARY OF LABOR,

Washington, DC, November 18, 1999.

Hon. DON NICKLES,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR NICKLES: This is a follow-up to the meeting of our respective staffs yesterday. While the Department of Labor recognizes that employers have the flexibility to determine the number and length of breaks they offer to their employees, the Wage and Hour Division has taken the position that if an employer offers a break of less than 20 minutes in duration, the time the employee spends on that break typically is compensable hours worked under the Fair Labor Standards Act.

Most of the Wage and Hour Opinion Letters that address this issue involve authorized breaks. However, on several occasions, the Wage and Hour Administrator has stated that short unauthorized breaks may also count as hours worked. Wage and Hour has taken the position that if an employee exceeds the time allotted for an authorized break, an employer may take a disciplinary action against the employee, or the employer may eliminate the option for rest periods/breaks.

I am committing the Wage and Hour Division and the Solicitor's Office to carefully review our policy with respect to the compensability of unauthorized break time under the FLSA. Our review will specifically include those instances in which employees exceed the time allowed for a rest break. We will also consider what outcome is in the best interests of the employee if the employee exceeds the allotted time for a rest period/break, including the option of deductions of compensation for the time taken in excess of the allotted break time.

As part of our review, we will consider the statutory text, relevant legislative history and regulatory material, case law, previous Wage and Hour Opinion Letters, changing technology and any information that your office or a member of the public may provide. We will complete our review of this matter by February 1, 2000, and transmit our conclusions and supporting rationale in writing to the Chairman and Ranking Members of the relevant committees in the House and the Senate.

It is important that all officials of the Wage and Hour Division interpret and apply the law in a uniform manner, and so advise the public. I will instruct the Wage and Hour Division to assure that the resolution of any cases in which unauthorized break time are at issue is consistent with the outcome we reach in our overall review.

I very much appreciate your interest in these important questions.

Sincerely,

ALEXIS M. HERMAN.

#### COMPENSATING CERTAIN DEPARTMENT OF ENERGY WORKERS

Mr. THOMPSON. Mr. President, yesterday, my colleague from New Mexico, Senator BINGAMAN, and I introduced legislation that is, frankly, long overdue.

For more than 2 years, I have been concerned that the Department of Energy was not taking seriously the complaints of a number of workers in Oak Ridge, Tennessee who are ill and who believe that their illnesses are linked to their employment at the DOE site in Oak Ridge. In November of 1997, two years ago, I wrote to the then-Surgeon General, Dr. David Satcher, to request

that the Centers for Disease Control, CDC, come to Oak Ridge to try to determine whether a pattern of unexplained illnesses was present and, if so, if its cause could be determined. The CDC study, like others before it, looked at a narrow sample of individuals and did not produce conclusive results.

Since then, I have been working to get the Department of Energy to acknowledge that there is a problem, that certain of its current and former workers are ill, and that they should work with us to address the situation. This legislation—which we developed in conjunction with the Department—is an important step in that direction.

It says, for the first time, that if mistakes were made, and if harm was done to workers who helped this country win the Cold War, we need to act now to remedy those mistakes. It represents a recognition on the part of the government that if people have illnesses that are linked to their employment at a Department of Energy facility, they deserve compensation. That is progress, and I am proud to be a part of it.

Our bill has three parts. The first section, the Energy Employees' Beryllium Compensation Act, would provide compensation to current and former workers who have contracted chronic beryllium disease or beryllium sensitivity while performing duties uniquely related to the Department of Energy's nuclear weapons production program. There are approximately 90 Oak Ridge workers who have been diagnosed with either chronic beryllium disease or beryllium sensitivity to date, and a total of 2,200 Oak Ridge workers who were potentially exposed.

The second section, the Energy Employees' Pilot Project Act, would establish a special pilot program for a specific group of 55 Oak Ridge workers who are currently the subject of an investigation by a panel of physicians specializing in health conditions related to occupational exposure to radiation and hazardous materials. This section authorizes the Secretary of Energy to award \$100,000 each to those Oak Ridge workers whose illnesses are determined to likely be linked to their employment at the Oak Ridge site.

Finally, our bill creates the Paducah Employees' Exposure Compensation Fund, which would compensate those current and former workers at the Paducah, KY gaseous diffusion plant who were exposed to plutonium and other radioactive materials without their knowledge, and who develop one of a specified list of conditions linked to radiation exposure. I want to note that there are workers at the K-25 gaseous diffusion plant in Oak Ridge who were exposed to the same contaminants as those in Paducah, and workers in Portsmouth, Ohio who were similarly affected as well. It is my hope that these two groups of workers would be added to this section of the legislation, upon the conclusion of the Department of Energy's investigation into what

happened at these two sites, if the facts so warrant. Their absence at this time should in no way indicate that either the sponsors of this bill or the Department of Energy believe that they were not similarly affected. I strongly believe that workers at all of the DOE sites must be treated equally in this process, and I am committed to doing all I can to ensure that that is the case.

Let me just remind my colleagues who it is we are talking about. We are talking about workers who participated in the Manhattan Project, men and women who helped to ensure the superiority of America's nuclear arsenal, and who directly contributed to our nation's victory in the Cold War. We owe them a debt of gratitude. And if we put them in harm's way without their knowledge, it's time for us to make that right. This bill is a step in that direction. I look forward to its consideration by the Senate.

#### PAIN RELIEF PROMOTION ACT

Mr. NICKLES. Mr. President, on June 23, 1999, Senator LIEBERMAN and I introduced S. 1272, the Pain Relief Promotion Act, which addresses two specific concerns. First, it provides federal support for training and research in palliative care. Second, it clarifies federal law on the legitimate use of controlled substances. On October 27, 1999 the House passed its companion measure H.R. 2260 by the resounding bipartisan vote of 271 to 156. It is my hope that the Senate will soon have the opportunity to debate and vote on this important legislation.

In anticipation of that debate, and in light of inaccurate characterizations of the second aspect of our bipartisan legislation, I believe it is important for me to ensure that the Record reflects precisely how this bill will—and will not—affect current federal law with regard to Drug Enforcement Administration (DEA) oversight of the use of federally controlled substances.

To understand the effect the Pain Relief Promotion Act will have on pain control, we must begin with what the law is now. The Controlled Substances Act, CSA, of 1970 charged the DEA with the responsibility of overseeing narcotics and dangerous drugs—including powerful prescription drugs which have a legitimate medical use but can also be misused to harm or kill. In asserting its authority over these drugs, Congress declared in the preamble of the Controlled Substances Act of 1970 that "Federal control of the intrastate incidents of the traffic in controlled substances is essential to the effective control of the interstate incidents of such traffic" (21 U.S.C. 801 (6)).

In 1984, Congress amended the CSA due in part to a specific concern regarding the misuse of prescription drugs in lethal overdoses. The then Democratic-controlled House and a Republican Senate further strengthened the Act, empowering the DEA to revoke a physician's federal prescribing

license if he or she uses it to endanger "health and safety" regardless of whether state law has been violated (21 U.S.C. 824, referencing 21 U.S.C. 823). The chairman of the Health subcommittee in the House agreed: "Drugs legally manufactured for use in medicine are responsible for a substantial majority of drug-related deaths and injuries" (Rep. WAXMAN, Hearing of July 31, 1984, Hearing Record No. 98-168, p. 365). Congress' view was that while the states are the first line of defense against misuse of prescription drugs, the Federal Government must have its own objective standard as to what constitutes such misuse—and it must have the authority to enforce that standard when a state cannot or will not do so. Congress' 1970 and 1984 decisions have been upheld time and time again by federal courts.

It is clear that federal law is intended to prevent use of these drugs for lethal overdoses, and contains no exception for deliberate overdoses approved by a physician. Nowhere in the Controlled Substances Act has death or assisting death ever been considered a "legitimate medical purpose" for use of these drugs. In the past, physicians who were involved in the use of these drugs for suicide or other lethal overdoses have lost their federal authority to prescribe controlled substances on the grounds that they had endangered "health and safety."

In 1997, Congress passed the Assisted Suicide Funding Restriction Act of 1997 without a dissenting vote in the Senate and by an overwhelming margin of 398-16 in the House. President Clinton stated in signing the bill that "it will allow the Federal Government to speak with a clear voice in opposing these practices." He further warned that "to endorse assisted suicide would set us on a disturbing and perhaps dangerous path." I would add only that authorizing a federal agency to endorse the use of controlled substances for assisted suicide would similarly "set us on a disturbing and perhaps dangerous path."

In November 1994, the State of Oregon adopted by referendum the so-called "Death with Dignity Act," allowing physicians to prescribe medication for the purpose of assisting patients' suicides. The week of that vote, Professor George Annas of Boston University pointed out the inconsistency between the Oregon referendum and the Controlled Substances Act in an article in the *New England Journal of Medicine*. He questioned whether such a state law was compatible with existing federal laws governing federally controlled drugs, "since the drafters of the federal statute certainly did not have this purpose [assisting suicides] in mind."

However, on June 5, 1998, overturning a previous determination by her own DEA Administrator, the Attorney General issued a letter carving out an exception for Oregon so it can use federally-controlled substances for assisted suicide. She claimed that Congress did not "intend to override a state deter-

mination as to what constitutes legitimate medical practice in the absence of a federal law prohibiting that practice." The Pain Relief Promotion Act will respond to the Attorney General's challenge, by clarifying that the intentional misuse of these drugs to cause patients' deaths is not authorized by Congress in any state, nor has it ever been.

On October 27, 1997, Oregon's "Death with Dignity Act" became effective. In the first year at least 15 patients have committed suicide with doctor's assistance under the new Oregon law. We really do not know the total number, because all reporting of cases is left completely in the hands of the doctors themselves, and the Oregon Health Division admits it has no idea how many unreported cases there are. But regarding those 15 reported cases we know one thing: Every one of those patient's deaths was caused by a federally controlled substance, prescribed with a federal DEA registration number, using federal authority. Today, without any decision to this effect by Congress or the President, the federal government is actively involved in assisting suicides in Oregon.

To hear some of the critics of this bill you might think that the Pain Relief Promotion Act creates a new authority on the part of the DEA to revoke doctors' registrations if they use controlled substances to assist suicide. On the contrary that authority has existed for 29 years and it exists now. Attorney General Janet Reno was very clear on this matter in her letter of June 5, 1998: "Adverse action under the CSA may well be warranted . . . where a physician assists in a suicide in a state that has not authorized the practice under any conditions, or where a physician fails to comply with state procedures in doing so."

What does this mean for current law and practice? First, the DEA has full authority to revoke a DEA registration for assisting suicide in any of the 49 states where assisting suicide is not authorized by state law. While critics of the Pain Relief Promotion Act have said that empowering the DEA to investigate physicians in such cases will have a "chilling effect" on the treatment of pain, the fact is that such authority already exists in 49 states.

What about the one State, Oregon, where the Attorney General said the DEA will not take adverse actions against physicians for assisting suicide in compliance with the Oregon law? Even in Oregon many cases of assisting suicide remain illegal under state law. The state law authorizes assisting the suicide of those who are terminally ill, but not others. Under the Attorney General's determination, then, the DEA can continue to review cases of assisting suicide to make sure they do not involve those who are not terminally ill, and it can scrutinize whether a given use of pain medication was really intended to assist suicide. All aspects of the Oregon guidelines for legally valid assisted suicide are also subject to DEA investigation, since the

Attorney General has only authorized physicians to use federally controlled drugs for assisted suicides when they fully comply with those state guidelines.

Thus, as interpreted by the Attorney General, a registration to prescribe federally controlled substances can be revoked under the current Controlled Substances Act if these substances are used to assist suicide in any state in the Nation, with the exception of certain cases of assisted suicide that Oregon has legalized for the terminally ill. If DEA scrutiny of doctors' prescribing practices were going to "chill" the practice of pain control, that would already be occurring under current law.

How does the Pain Relief Promotion Act impact this situation? It establishes that, for the first time in federal law, the use of controlled substances for the relief of pain and discomfort is a "legitimate medical purpose," even if the large doses used in treating pain may unintentionally hasten death. Intentionally causing death or assisting in causing death remains forbidden. Thus this bill does not increase the DEA's regulatory authority at all. On the contrary, its only effect in 49 states (and even in Oregon, in cases involving those who are not terminally ill) is to provide new legal protection for physicians who prescribe controlled substances to control pain.

In Oregon, this bill eliminates the Attorney General's artificial exception designed to accommodate assisted suicides that are no longer penalized under Oregon law. The DEA can meet its responsibility here simply by looking at the reports required by Oregon law, in which doctors must identify the drugs used to assist suicide. Those records will make it clear whether federally controlled drugs were used; and since the physician is clearly reporting that his or her own intent was to help cause death, there will be no question of murky intentions or ambiguity. Thus this bill will not lead to any increase in the DEA trying to "second guess" or infer physicians' intentions, even in Oregon.\*\*\*\*-Name: -Payroll No. -Folios: J1S/13-J1S/14 -Date: -Subformat:

What of any unreported cases in which physicians assist the suicides of terminally ill patients? Those assisted suicides are already a crime under Oregon law, and thus already subject to adverse action by the DEA as well under the Attorney General's interpretation. Only if a physician officially reports the case to the Oregon Health Division is he or she exempted from state criminal penalties. So those cases are already covered by the same DEA authority that currently applies to assisted suicides in the other 49 states.

Let me take this situation step by step.

First, removing the Oregon exception to the existing nationwide policy cannot increase any "chilling effect" on

pain relief outside of Oregon, because the bill does not increase one iota the authority of the DEA to investigate the misuse of controlled substances to assist suicide outside of Oregon. In fact, in those states its only effect is to provide a more explicit "safe harbor" for the practice of pain control, which is a significant advance and improvement for doctors and terminally ill patients. This is also true of assisted suicide cases within Oregon that do not comply with the state's reporting requirements or other guidelines. In all these cases, the Pain Relief Promotion Act gives the DEA no new mandate to investigate cases of assisted suicide more directly. Rather, it is expected to follow its longstanding practice of generally deferring to state authorities and allowing them to take the lead in investigating possible wrongdoing.

Second, no new questioning of physicians' intentions is warranted to address the cases of assisted suicide that are now permitted under Oregon law. To be free of criminal penalties under state law in Oregon, a doctor who assists a suicide must submit a report to Oregon authorities that includes information on the drugs prescribed to assist the suicide. The Drug Enforcement Administration, DEA, can obtain those reports from the Oregon authorities. It already has the authority to subpoena them, if necessary; again, our legislation has no impact on this.

Thus, even in Oregon, this bill will not result in any increase in DEA oversight or investigations of doctors based on their prescribing patterns or the dosages they use for particular patients. This is clearly stated in the House Judiciary Committee report on this bill, H. Rep. 106-378 Pt. 1, pp. 12-13.

It follows that if this bill is enacted, any doctors in Oregon who prescribe controlled substances for pain relief need not fear any increase in DEA scrutiny of their practices, and therefore should not in any way be deterred from prescribing adequate pain relief.

This bill cannot have a "chilling effect" on pain control, but will have the opposite effect. For the first time, it will place in the Controlled Substances Act, as the American Society of Anesthesiologists notes, "recognition that alleviating pain in the usual course of professional practice is a legitimate medical purpose for dispensing a controlled substance that is consistent with public health and safety, even if the use of such a substance may increase the risk of death." The American Medical Association says this bill, "provides a new and important statutory protection for physicians prescribing controlled substances for pain, particularly for patients at the end of life." As the American Academy of Pain Management observes, this will protect the ability of "prescribers to relieve pain without fear of regulatory discipline."

Those who are concerned about the possibility of a negative impact on pain relief if we pass this bill need to

answer this question: do they believe that now the Drug Enforcement Administration is having a chilling effect on pain relief because federally controlled substances cannot be used to assist suicide in 49 states and even, in many cases, in Oregon?

If the answer is "no," then there is no basis to be concerned about this bill—for this bill will not increase investigations or oversight into the dosages of drugs used for pain relief, and in fact instructs the DEA to be even more sensitive to physicians' need to prescribe large doses of these drugs for pain control.

If the answer is "yes," then there is a great need for this bill—because for the first time it adds specific protections for doctors who prescribe controlled substances for pain control—resulting in a decrease in any "chilling effect" that may exist under current law.

Let me quote from the American Medical Association:

The bill would not expand existing criminal penalties in the CSA for persons whose unauthorized use of a controlled substance leads to someone's death. . . . The bill would not expand the DEA's authority concerning jurisdiction, investigations or enforcement regarding the CSA. In fact, the inclusion of a recognition of the "double effect" in the CSA provides physicians in all jurisdictions an additional statutory protection in cases of alleged [physician-assisted suicide]. The bill has the potential, through its educational provisions, of sensitizing law enforcement personnel to the multiple issues of end-of-life care and prescribing.

It is noteworthy that although the Justice Department expressed concern about the portion of the bill that would prevent the use of federally controlled substances to assist suicide in Oregon, it agrees that the bill would aid, and not hinder, pain relief. In a letter dated October 19, 1999, the Justice Department wrote that the bill "would eliminate any ambiguity about the legality of using controlled substances to alleviate the pain and suffering of the terminally ill by reducing any perceived threat of administrative and criminal sanctions in this context. The Department accordingly supports those portions of [the bill] addressing palliative care."

This bill makes it easier, not harder, to use controlled substances to relieve pain. That is why so many major medical organizations, including the National Hospice Organization, the American Academy of Pain Management and the American Society of Anesthesiologists, as well as the AMA, strongly support its enactment.

Some may wish to abolish the Controlled Substances Act altogether. They may think that the federal government's longstanding insistence on monitoring the distribution of these powerful drugs is an unwarranted intrusion into medical practice. I disagree with that stand, but at least it can be understood as a consistent position. What is untenable is the claim that this particular bill, which clearly

improves the law's sensitivity to medical judgments on pain control, somehow mysteriously worsens that situation. Once we understand what the current law is and what this bill does, that claim simply does not make sense.

In short, the Pain Relief Promotion Act will foster pain control. It will improve existing law by adding significant new legal protections for physicians and pharmacists who prescribe and dispense controlled substances for pain control. It will reduce, and in no way increase, any possible "chilling effect" that could deter adequate pain control. And by clarifying federal law so the federal government will not facilitate the medical institutionalization of assisted suicide in any state, this legislation may help discourage doctors from simply suggesting assisted suicide instead of working to address their patients' real problems of uncontrolled pain. As protectors of public health and safety we should be encouraging doctors to kill the pain, not the patient.

Mr. President, I ask unanimous consent that the following two editorials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Nov. 4, 1999]

#### DON'T KILL THE PAIN-RELIEF BILL

(By Wesley J. Smith)

Last week, by a vote of 271-156, the House approved the Pain Relief Promotion Act, designed to promote effective medical treatment of pain while deterring the misuse of narcotics and other controlled substances for assisted suicide. The bill's passage prompted an outpouring of hyperbole and misinformation from opponents. Here are the facts about the act:

It would not outlaw assisted suicide. Critics accuse Congress of "overturning" Oregon's assisted-suicide referendum. Would that it did. In fact, the act would outlaw only the intentional use of controlled substances to cause death. Lethal substances not controlled by federal drug regulations could still be prescribed legally on Oregon for use in assisted suicide.

It would not interfere with states' rights. Under the Controlled Substances Act the federal government, not the states, has the authority to determine what is and is not a proper medical use of the drugs specified in the act. Thus, as an editorial in the (Portland) Oregonian noted, it is the Oregon law that "barges into an area of long-standing federal jurisdiction." Thus passage of the act would return national uniformity to the enforcement of federal drug laws.

It merely reaffirms existing federal law. Because the act declares that assisted suicide is not a "legitimate medical purpose" under the Controlled Substances Act, critics have wrongly accused supporters of granting new authority to the Drug Enforcement Agency to punish doctors. In fact, DEA has had that authority for nearly 30 years. Since 1980 it has brought more than 250 enforcement actions for violating the federal legal standard of "legitimate medical purpose."

The medical community overwhelmingly favors it. Proponents of the bill include the American Medical Association, the National Hospice Organization, the Hospice Association of America, the American Academy of

Pain Management, the American Society of Anesthesiologists and the American College of Osteopathic Family Physicians. (True, support isn't unanimous. Dissent within the medical community has been led by the Rhode Island Medical Association.)

It has broad bipartisan support. Seventy-one House Democrats voted for the bill, and its Senate sponsors include Joe Lieberman (D., Conn.), Chris Dodd (D., Conn.) and Evan Bayh (D., Ind.).

It would enhance pain control. If the act becomes law, pain control will for the first time be specifically identified in federal law as a proper use of controlled substances—even if the use of pain-controlling drugs has the unintended side effect of causing death. That is a much-needed legal reform, because many doctors fail to treat pain aggressively because they fear the government's second-guessing. Several states have recently passed similar laws, leading to dramatic increases in the use of morphine and other palliative medications.

The Pain Relief Promotion Act looks likely to pass the Senate. If President Clinton truly feels our pain, he will sign it the moment it hits his desk.

[From the Oregonian, July 1, 1999]

#### KILL THE PAIN, NOT THE PATIENTS

CONGRESS SHOULD ALLOW DOCTORS TO USE CONTROLLED DRUGS FOR AGGRESSIVE PAIN TREATMENT INSTEAD OF SUICIDE

It's no secret to any reader of this space that we oppose Oregon's venture into physician-assisted suicide.

But last year, when the American Medical Association and the National Hospice Organization came out against a bill in Congress giving medical review boards the power to deny or yank the federal drug-prescribing license to physicians who prescribed these drugs to assist in suicides, we took their concerns seriously.

The groups argued that the proposed law could reverse recent advances in end-of-life care. Doctors might become afraid to prescribe drugs to manage pain and depression—things that, when uncontrolled, can lead the terminally ill to consider killing themselves in the first place. We thought then that the problem could be worked out and that it was possible to keep doctors from using federally controlled substances to kill their patients without also preventing them from relieving their terminally-ill patients' agonies.

This Congress's Pain Relief Promotion Act proves it, and the proposed legislation comes not a moment too soon. A new report by the Center for Ethics in Health Care at Oregon Health Sciences University shows that end-of-life care in Oregon—which fancies itself a leader in this area—is far from all it should be. Too many Oregonians spend the last days of their life in pain.

There's no real need for that—and the Pain Relief Promotion Act of 1999 would go a long way toward addressing these systemic and professional failures here and elsewhere. The proposal would authorize federal health-care agencies to promote an increased understanding of palliative care and to support training programs for health professionals in the best pain management practices. It would also require the Agency for Health Care Policy and Research to develop and share scientific information on proper palliative care.

Further, the Pain Relief Promotion Act would clarify the Controlled Substances Act in two essential ways.

One, it makes clear that alleviating pain and discomfort is an authorized and legitimate medical purpose for the use of controlled substances.

Two, the bill states that nothing in the Controlled Substances Act authorizes the

use of these drugs for assisted suicide or euthanasia and that state laws allowing assisted suicide or euthanasia are irrelevant in determining whether a practitioner has violated the Controlled Substances Act.

Technically, of course, the bill does not overturn Oregon's so-called Death with Dignity Act. But it would thwart it, for all practical purposes, because it makes it illegal for Oregon doctors to engage in assisted suicide using their federal drug-prescribing license. Suicide's advocates may think of some other method, but none seems obvious.

Is this a federal intrusion on a state's right to allow physician-assisted suicide or euthanasia?

To hear some recent converts to states' right talk, you might think so. But you could just as easily argue that Oregon's assisted suicide law intrudes on the federal domain. The feds have long had jurisdiction over controlled substances, even as states kept the power to regulate the way physicians prescribe them. At best, it's a gray area.

You'll recall that the Department of Justice declined to assert a federal interest in all of this when it plausibly could have, shortly after Oregon voters approved assisted suicide. It's probably better—and high time—that Congress asserts that interest explicitly.

This act would establish a uniform national standard preventing the use of federally controlled drugs for assisted suicide. That, in itself, should advance the national debate on this subject in a more seemly way than, say, the recent efforts of Dr. Jack Kervorkian.

Beyond that, it's high time that Congress made clear that improved pain relief is a key objective of our nation's health-care institutions and our Controlled Substances Act. The Pain Relief Promotion Act will do all this. No wonder the American Medical Association and the National Hospice Organization are now on board.

#### PRISON CARD PROGRAM

Mr. ASHCROFT. Mr. President I rise today to talk about an important and highly successful program operated for more than 25 years by the Salvation Army in conjunction with the Bureau of Prisons. This program is called the Prison Card Program. Under the program, greeting cards are donated to the Salvation Army that are then given to inmates at correctional facilities across the country. This program allows inmates to keep in touch with family and friends—not only during the holiday season—but throughout the year. The benefits of this program to the inmates and their loved ones are clear. However, there are also benefits to the community as well. Inmates who maintain strong ties with their families and friends are less likely to return to prison once their sentence is completed.

I want to commend the Salvation Army, the Department of Justice, and the Bureau of Prisons for supporting this program. In particular, I want the Department to know that this program has the support of Congress. I have spoken to Chairman GREGG, who has indicated that he is prepared to work with me and other supporters of the program in the coming months to ensure that this important charitable program is sustained well into the future.

#### THE CARIBBEAN BASIN INITIATIVE AND THE IMPACT ON TRADE WITH ISRAEL

Mr. JOHNSON. Mr. President. I would like to alert my colleagues to an issue raised by H.R. 434, the African Growth and Opportunity Act and the Caribbean Basin Initiative, regarding trade with Israel under the U.S.-Israel Free Trade Area Agreement. Notwithstanding our free-trade agreement with Israel, the CBI provisions of this legislation would unfairly discriminate against U.S. imports from Israel.

Under that legislation, most U.S. textile products made with Israeli inputs, such as yarn, fabric or thread, would not be eligible for duty free treatment when assembled into apparel in the Caribbean. To illustrate the contrast with current law, today, if a U.S. company uses Israeli yarn in manufacturing fabric, the products made from such fabric would be eligible for CBI benefits. The trade bill creates a unilateral change from the status quo in our trade with Israel and a major barrier to U.S. companies using Israeli-origin inputs.

I would like to submit for the RECORD a letter from the Economic Minister of the Israeli Embassy that was sent to each of the Members of the Senate Finance Committee urging Congress to treat Israeli inputs on par with U.S. inputs in this trade legislation. I ask unanimous consent that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EMBASSY OF ISRAEL,

Washington, DC, June 15, 1999.

DEAR SENATOR: I am writing to you, as well other members of the Committee on Finance, to ask for your support during the Committee's mark-up of the U.S.-Caribbean Basin Trade Enhancement Act (also known as the "CBI" trade parity bill) to ensure that it does not impose an economic barrier against U.S. imports of Israeli-origin inputs, such as yarn, fabric or thread, under the U.S.-Israel Free Trade Area Agreement ("FTAA").

My Government urges the inclusion of a provision in the CBI legislation that will enable U.S. companies to continue utilizing Israeli-origin inputs in producing American-made products without making such products ineligible for CBI duty-free trade preferences.

The current CBI trade program provides preferential tariff treatment to apparel made from U.S.-formed components that are finished in a CBI-eligible country. Currently such components may be cut from fabric, or formed from yarn, originating either in the United States or Israel. The legislation before the Committee incorporates a U.S.-only fabric and thread forward rule of origin. The CBI bill recently approved by the House Ways and Means Committee also incorporates a U.S.-only "yarn forward" requirement for knit-to-shape products. Either bill in its current form would adversely affect Israeli exports to the United States. Market conditions would all but require U.S. companies to halt imports of Israeli inputs so as not to disqualify their products from the duty-free trade preference to be extended unilaterally to CBI-eligible countries. The loss of sales to the U.S. market would harm

both Israeli companies and U.S. companies that supply raw materials used in the manufacture of Israeli inputs, such as nylon yarn.

I am bringing this matter to your attention because the legislation to be considered by the Finance Committee should not damage U.S.-Israeli trade. Protecting against such harm can be accomplished by providing in the legislation that Israeli-origin inputs will, for purposes of CBI preferences, be treated no less favorably than U.S. inputs. Such a provision would ensure that restrictive consequences of the proposed legislation would not adversely affect U.S.-Israeli trade.

The legislative measure that we are asking you to support is consistent with previous trade measures approved by your Committee and enacted into U.S. law to preserve U.S.-Israeli trade under the FTAA. Such a provision would preserve the status quo in U.S.-Israeli trade, a goal that has been endorsed previously on a number of occasions by the Committee. It is not intended to create any new benefit for Israeli products.

In sum, our objective is to ensure that the CBI trade bill does not withdraw the practical benefits of the U.S.-Israel Free Trade Area Agreement and our mutual goal of expanding bilateral trade. I would very much welcome the opportunity to review this issue with you.

Sincerely,

OHAD MARANI,  
Economic Minister.

Mr. JOHNSON. I do not think that it is the intent of the CBI legislation to undermine our trade with Israel. Preserving our existing trade with Israel will not in any way lessen the trade benefits we extend to the CBI countries. And it is critically important that we consider our existing trade agreement with Israel as we develop further trade measures. I urge my colleagues to address this issue as this bill moves forward, so that we do not prejudice our trade with Israel under the U.S.-Israel Free Trade Area Agreement.

#### CONGRESSIONAL BUDGET OFFICE REPORT

Mr. MURKOWSKI. Mr. President, at the time Senate Report No. 623 was filed, the Congressional Budget Office report was not available. I ask unanimous consent that the report which is now available be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, November 10, 1999.

Hon. FRANK H. MURKOWSKI,  
Chairman, Committee on Energy and Natural  
Resources,

U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 623, the Dakota Water Resources Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Megan Carroll (for federal costs), and Marjorie Miller (for the impact on state, local, and tribal governments).

Sincerely,

BARRY B. ANDERSON,  
(For Dan L. Crippen, Director).

Enclosure.

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

##### S. 623—Dakota Water Resources Act of 1999

#### SUMMARY

CBO estimates the implementing S. 623 would cost \$131 million over the 2000-2004 period, assuming appropriation of the necessary amounts. Starting in fiscal year 2002, S. 623 would affect direct spending; therefore, pay-as-you-go procedures would apply. CBO estimates, however, that changes in direct spending would not become significant until 2007. S. 623 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). The state of North Dakota and local governments in that state would probably incur some costs as a result of the bill's enactment, but these costs would be voluntary.

S. 623 would amend the existing authority for construction of the Garrison Diversion Unit (GDU) of the Pick-Sloan Missouri Basin Program, administered by the Bureau of Reclamation (the Bureau). S. 623 would authorize the appropriation of about \$688 million (in 1999 dollars) for the Bureau to complete the GDU. Adjusting for anticipated cost growth, CBO estimates that implementing this legislation would require the appropriation of \$793 million over the 2000-2017 period. Most of the outlays from such funding would occur after 2004. We estimate that enacting the bill would reduce offsetting receipts (a credit against direct spending) by less than \$200,000 a year between 2002 and 2006, but would result in increased offsetting receipts of about \$7 million a year starting in 2007.

#### ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact on S. 623 over the next five years is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By Fiscal Year, in Millions of Dollars				
	2000	2001	2002	2003	2004
<b>CHANGES IN SPENDING SUBJECT TO APPROPRIATION<sup>1</sup></b>					
Estimated Authorization Level ...	0	24	33	47	31
Estimated Outlays	0	16	27	41	47

<sup>1</sup> Most of the costs of implementing S. 623 would occur after 2004. In addition, to the bill's discretionary costs, it would increase direct spending by less than \$200,000 a year over the 2000-2004 period. (That estimated annual effect would continue through 2006, but S. 623 would reduce direct spending by about \$7 million a year after 2006).

Assuming appropriation of the necessary funds, CBO estimates that implementing S. 623 would cost \$131 million over the 2000-2004 period, \$450 million over the 2000-2009 period, and \$793 million over the 2000-2018 period. Initially, the bill would have no significant impact on direct spending, but after 2006, S. 623 would increase offsetting receipts by about \$7 million a year.

#### BASIS OF ESTIMATE

Estimates of funds needed to meet design and construction schedules were provided by the Bureau. CBO adjusted those estimates to reflect anticipated cost growth during the construction period, as authorized by the bill. For purposes of this estimate, CBO assumes that S. 623 will be enacted during fiscal year 2000 and that the authorized amounts will be appropriated. Estimates of outlays are based on historical spending patterns for similar projects.

#### SPENDING SUBJECT TO APPROPRIATION

Red River Valley Water Supply Project.—S. 623 would authorize the appropriation of \$200 million (in 1999 dollars) for the Bureau to construct facilities to meet the water quality and quantity needs of the Red River Valley. Based on information from the Bureau, CBO expects that construction would

begin during fiscal year 2004 and would be substantially completed in 2007. Assuming appropriation of the necessary amounts, CBO estimates that design and initial construction would about \$75 million over the 2000-2004 period.

Municipal, Rural, and Industrial Water Systems.—The bill also would authorize the appropriation of \$200 million (in 1999 dollars) for the Bureau to make grants to North Dakota to construct municipal, rural, and industrial water systems. The bill would authorize the appropriation of an additional \$200 million (in 1999 dollars) for the Bureau to construct, operate, and maintain, on a nonreimbursable basis, municipal, rural, and industrial water systems on certain Indian reservations. CBO estimates that implementing both of these provisions would cost about \$45 million between 2000 and 2004.

Operation and Maintenance.—During construction of the Red River Valley Water Supply Project, operation and maintenance costs of the GDU would be covered by using funds appropriated for construction. Once the facility is completed in 2007, S. 623 would authorize the appropriation of amounts necessary for the Bureau to operate and maintain a certain portion of the facility. Based on information from the Bureau, CBO expects the facility to be put into use in 2007. At that time, we estimate that an additional appropriation of about \$3 million would be required each year for operation and maintenance.

S. 623 also would authorize the appropriation of additional amounts necessary for the operation and maintenance of wildlife mitigation and enhancement facilities, including wildlife refuges. Based on information from the Bureau, CBO estimates this work would cost about \$1 million annually starting in 2001.

Natural Resources Trust.—S. 623 would authorize the appropriation of \$25 million for the Secretary of the Interior to make annual contributions to the Natural Resources Trust, a nonfederal corporation (currently known as the Wetlands Trust). The amount to be contributed in any fiscal year would equal 5 percent of the amount appropriated in that year for the Red River Valley Water Supply Project and for non-Indian municipal, rural, and industrial water supply systems. CBO estimates this provision would cost \$6 million between 2000 and 2004.

Recreational Projects.—The bill would authorize the appropriation of \$6.5 million for the Bureau to construct, operate, and maintain new recreational facilities, provided that the Secretary of the Interior has entered into agreements with nonfederal entities to provide half of the cost of operating and maintaining any such facilities. CBO estimates that implementing this provision would cost about \$1 million between 2000 and 2004.

Oakes Test Area Title Transfer.—S. 623 would authorize the Secretary to convey the Oakes Test Area, an experimental irrigation facility in North Dakota, to the local irrigators. The Bureau currently spends less than \$200,000 annually to operate and maintain the facility. These amounts are subject to appropriation and are reimbursed by users of the facility. Reimbursements are deposited in the Treasury as offsetting receipts and are unavailable for spending without appropriation action. Based on information from the Bureau, CBO expects that the title transfer would occur during fiscal year 2002. Starting in that year, this provision would yield annual discretionary savings of less than \$200,000.

#### DIRECT SPENDING

Offsetting Receipts from Repayment Contracts.—Under current law, the GDU water

supply features are not expected to be put into service, and thus will not generate offsetting receipts from repayment contracts. According to the Bureau, under S. 623 the unit would be placed into service during 2007 and the agency would start to collect repayments from project beneficiaries in that year. Repayments would be deposited in the Treasury as offsetting receipts and would be unavailable for spending without appropriation. CBO estimates that these receipts

would total about \$7 million a year starting in 2007.

**Oakes Test Area Title Transfer.**—CBO estimates that under the bill, the Secretary would transfer ownership of the Oakes Test Area to local users in 2002. This transfer would reduce offsetting receipts that are collected from irrigators under current law to reimburse the Bureau for operating costs. Thus, CBO estimates that this provision would reduce offsetting receipts by less than \$200,000 a year starting in 2002.

**Pay-as-you-go considerations:** The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the budget year and the succeeding four years are counted.

	By Fiscal Year, in Millions of Dollars									
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Changes in outlays .....	0	0	0	0	0	0	0	-7	-7	-7
Changes in receipts .....						Not applicable				

Estimated impact on state, local, and tribal governments: S. 623 contains no intergovernmental mandates as defined in UMRA. Under current law, and under the amendments made by this bill, the state of North Dakota and local governments in that state would provide some of the funds necessary to construct and to operate and maintain the authorized facilities. All such spending would be a condition of federal assistance and would be voluntary.

Estimated impact on the private sector: This bill would impose no new private-sector mandates as defined in UMRA.

Estimate prepared by: Federal Costs: Megan Carroll; Impact on State, Local, and Tribal Governments: Marjorie Miller.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, November 17, 1999, the Federal debt stood at \$5,690,918,151,426.47 (Five trillion, six hundred ninety billion, nine hundred eighteen million, one hundred fifty-one thousand, four hundred twenty-six dollars and forty-seven cents).

One year ago, November 17, 1998, the Federal debt stood at \$5,586,021,000,000 (Five trillion, five hundred eighty-six billion, twenty-one million).

Five years ago, November 17, 1994, the Federal debt stood at \$4,752,752,000,000 (Four trillion, seven hundred fifty-two billion, seven hundred fifty-two million).

Ten years ago, November 17, 1989, the Federal debt stood at \$2,918,126,000,000 (Two trillion, nine hundred eighteen billion, one hundred twenty-six million) which reflects a doubling of the debt—an increase of almost \$3 trillion—\$2,772,792,151,426.47 (Two trillion, seven hundred seventy-two billion, seven hundred ninety-two million, one hundred fifty-one thousand, four hundred twenty-six dollars and forty-seven cents) during the past 10 years.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Madam President, I thank the Chair.

Madam President, what is the matter before the Senate?

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The period for morning business has expired. The normal business before the Senate would be the bankruptcy bill.

Mr. BYRD. I thank the Chair.

Madam President, I ask unanimous consent to speak out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### HAPPY BIRTHDAY WISHES FOR THE HON. TED STEVENS

Mr. BYRD. Madam President, I want to call attention to the fact that today, November 18, 1999, is the birthday of the very distinguished chairman of the Senate Appropriations Committee, my friend. I would like to say lifelong friend; I just haven't had the pleasure of knowing him all of my life. The day after tomorrow, I will be 82 years old, if the Lord lets me live. So I can't say he is my lifelong friend, but he has been my friend over all the years he has served in the Senate.

I wish him a happy, happy birthday. He is a Senator who doesn't look up to the rich. He doesn't look down on the poor. He is a good man on the inside and on the outside. And he is a man who sticks by his principles.

He is a Republican. I am a Democrat. But neither he nor I puts political party above everything else. We know that political party is important, but there are other things in this life that are even more important. He recognizes that. His handclasp is like the handclasp of our ancestors. His word is his bond, as was the word of our ancestors.

I could say much more. I will simply say he is a Christian gentleman, a gentleman first, last, and always. My wife Erma and I extend to him our very best wishes on his birthday and our prayers and hopes that he will enjoy many, many more happy birthdays.

He is rendering a tremendous service to his country and to his State. I hope the people of Alaska realize what a treasure this man is. He works for Alaska every day in the Senate. We know that. He is effective. He is forceful. He is genuine.

Erma and I join in wishing him a happy birthday and expressing our

good wishes also to his lovely wife, Catherine, and to his children.

I yield to the distinguished majority leader.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Madam President, I thank Senator BYRD for yielding me the time. I join in wishing a very happy birthday to our friend from Alaska. He makes the Senate a better place. He keeps us lively. He works hard. He makes sure we get our job done, and he does it with a lot of alacrity sometimes. He will get right up in your face and make sure you understand. That helps to clear the subject up in many instances.

He is a great guy. I am honored to be able to serve in this institution with the great Senator from Alaska who does so much for our country and certainly for his State of Alaska. I will not tell his wife, the lovely, charming wife to whom he is married, what his age is today because I assume she doesn't know what his actual age is. We will keep that a secret. But happy birthday to our great friend.

Mr. DASCHLE. Will the majority leader yield because I think this is the most appropriate time to add my wishes as well.

Mr. LOTT. I am happy to yield.

Mr. DASCHLE. I wish to identify with the warm and generous remarks made by the distinguished senior Senator from West Virginia. I agree entirely with his comments and with the views he has expressed. I think he and I speak for our caucuses in our admiration collectively for the Senator from Alaska. We may not always agree, but there isn't anyone who cares more deeply about this institution, about his State, and represents himself more effectively on the Senate floor and with his colleagues than the Senator from Alaska.

It is an honor for me to be one of those who have had the good fortune of working with him. I respect him immensely, and I, too, join in wishing him the happiest of birthdays. I wouldn't be surprised at all if Catherine knows exactly how old he is today.



# MAKING FURTHER CONTINUING APPROPRIATIONS

## MOTION TO PROCEED

Mr. LOTT. Madam President, I ask unanimous consent the Senate now proceed to the short-term continuing resolution.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, reserving the right to object, I speak on behalf of 11 million Americans, at least, many of them residents of the State of Alaska. We haven't solved the satellite home viewer matter. I don't see why we can't. It is very simple. All we have to do is put that loan guarantee in, which is very simple. If there are any wrinkles, they can easily be worked out. It makes no sense for us to go home without passing the loan guarantee provision so that the satellite viewers can rest assured and so that those who are going to put up satellites and develop satellites for local-to-local coverage are able to do so. I cannot understand, on behalf of those 11 million Americans who can't understand, why in the world we don't do something that is pretty simple.

Mr. LOTT. Will the Senator yield to me to respond?

Mr. BAUCUS. Madam President, I reserve the right to object.

Mr. LOTT. I have not propounded a unanimous consent request other than to proceed to the short-term continuing resolution so that Senator BYRD may begin to discuss an issue of concern to a number of Senators. I intended to talk to the Senator from Montana and others about trying to enter into an agreement with regard to time.

On the issue to which he referred, I think it is very important that we do take action in this final bill we will be taking up in the next day or so, or today, that will make sure the satellite bill is passed so that people across this country will continue to receive service from the networks on their television sets in the future in order to have this so-called local-to-local service where you get your local station on your local satellite. We are going to have to have some process, some way to get that service into rural areas and smaller areas such as those in Montana, Alaska, and in Mississippi. I am committed to getting that done. So is the Senator from Alaska, Mr. STEVENS. We are going to get that done.

We are going to have to have a very carefully thought out loan guarantee system that will get the satellites up, to get the towers that are necessary to make sure that that is done. The problem we have, as with so many other issues we have been dealing with in the last week, is getting all of that done in the last few hours to make sure we get it done right without the whole process being held up as we go forward.

I will talk to the Senator privately, but he has my assurances—Senator

DASCHLE and I will put a colloquy in the RECORD—that we are going to get this done. We are going to get it done early next year. If there are dilatory tactics, we will have a bill that has been carefully massaged by all of the relevant committees, not just one. We will either get it done straight up or we will look for another vehicle. This is something to which we are committed, to which I am committed, and I know the Senator from Alaska is committed.

Mr. STEVENS. Will the Senator yield?

Mr. LOTT. I believe the Senator from Montana—

Mr. BAUCUS. Madam President, I yield to the Senator from Alaska without losing my rights to the floor.

Mr. STEVENS. I certainly won't make a long statement. I still am very committed to the loan guarantee provisions that were in the Satellite Home Viewer Act. But I am also convinced that we would have a period of time to get the regulations ready to proceed with that guarantee program. It would take roughly 6, 7 months.

I am going to ask the FCC to start preparing those regulations now. We have the commitment that we will have a loan guarantee bill before us, and we will be voting on it sometime in April. We will not delay the loan guarantee program for rural America by what we have done. I was assured of that, and I am assured in my own mind that it will work. We will be right on time by the time we get this bill.

We have a commitment coming that we will either have an improved authorization for a loan guarantee or we will vote what was in the bill we took out last night. I urge my friend to understand that we have not abandoned the loan guarantee program. Coming from where I do, I would never abandon it.

When I came to the Senate, the Army ran the communications system of Alaska; the U.S. Government owned all of the telephones in Alaska. Now, when you look at the distance we have come in a relatively short time of my service in the Senate, we are going to do the same thing with satellite communications in a very short period of time, in a new way, consistent with private enterprise, on a guarantee program rather than a Government loan program.

We need to have certainty to what we are doing. I know it will take a long time to get the regulations ready. We did not agree to delaying the loan guarantee program last night; we delayed the authorization for it, and we will have that authorization by April of next year.

Mr. BAUCUS. Madam President, reserving the right to object, I hear my good friend from Alaska and the majority leader. They have States that have the same concerns as do we. Not for a moment do I doubt the intentions of both of the Senators. They are two of the most honorable men I have had the pleasure to know. They are wonderful people.

But I also know how the Senate operates. I also know that the best intentions often don't materialize and something happens. I also know that some of the regulations I suspect the Senator talked about—it is a lot easier for the FCC to write regulations than not knowing in the abstract what the regulations are. I don't know what they can really do that is substantive or effective in the next several months, or whatever it takes.

I also know that the only objection to us proceeding really is one Senator who, for some reason, thinks he should have jurisdiction over this. It is an "inside baseball" objection. It is not a substantive objection in any great way.

I also know there is a lot in this omnibus bill that was written pretty quickly, where many minds got together to get something done. I also know that necessity is the motherhood of invention. If we want to do this, we will find a way to get it in.

I am suggesting that a vast majority of Members of this body want to do it. I suggest that 90 percent want to do it. There is an objection not based on substance but based on another reason.

I very much appreciate the desire of the Senator from West Virginia to speak. But I might say that my objecting to proceeding here does not deprive the Senator from speaking. He will find ample opportunity, and I support his right to be able to speak. This is so black and white, so much of a no-brainer, and there are millions of Americans in rural America who want this thing, and there is so little reason not to do it.

So I will object.

The PRESIDING OFFICER. Objection is heard.

The majority leader has the floor.

Mr. LOTT. Madam President, I yield the floor. I believe the Senator from West Virginia was prepared to proceed to discuss his issue. I think he probably will do that. We will see what might be done to address concerns Senators may have, and we will be back later.

Mr. STEVENS. Mr. President, I checked with my office. TEA 21, the highway bill, had a loan guarantee program. It took 16 months for the regulations to be drawn before there was one guarantee made. We have the process to be started on the Satellite Home Viewer Act to create regulations for a new loan guarantee program, and I said it could be done in 6 months. My staff tells me I was very conservative; it will take much longer than that. We will have the law for authorizing the loan guarantee done by the end of April.

I do not believe that those who agree with me that there should be a loan guarantee program should be worried about the deletion of that authorization now. The problem on the loan guarantee program is to commence the drafting and, really, the presentation of the new program. It will be entirely new. It is not similar to any conduct of a loan guarantee program in history. So it will take a considerable amount of time.

I want the RECORD to note there is no reason to oppose this bill and particularly to oppose this continuing resolution on the basis of the deletion of the loan guarantee program from the Satellite Home Bureau Act.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

#### MOUNTAINTOP MINING

Mr. BYRD. Madam President, in the rush to complete work on an omnibus appropriations bill that will attract enough votes to pass both Chambers of Congress without incurring a veto from the White House, a number of important measures that should have been in the conference report have ended up on the cutting room floor. One of those issues is mountaintop mining.

I am extremely disappointed at the shortsightedness of the White House, as well as some Members of Congress, on this issue. We had a chance on the omnibus package to right a wrong, to remedy the crisis in West Virginia's coal fields that was triggered by a recent Federal court ruling. But the White House blocked that effort, leading the charge to exclude the proposed legislative remedy from the omnibus bill. As a result, thousands of coal miners in West Virginia, and throughout Appalachia, are facing a bleak and uncertain future.

Particularly troubling to me is that the ammunition used to defeat this proposal, the ammunition used to keep it out of the omnibus package, was, in large part, a campaign of misinformation, led by the White House.

My proposal is not antienvironment. The White House would have you believe otherwise. My proposal would not weaken or in any way alter the Clean Water Act. Let the White House hear! The White House would have the people believe otherwise. Let me say it again. This amendment which is cosponsored by Mr. MCCONNELL, the senior Senator from Kentucky; Mr. ROCKEFELLER, the junior Senator from West Virginia; and Mr. BUNNING, the junior Senator from Kentucky, would not weaken or in any way alter, modify, change, repeal, amend, or undermine the Clean Water Act.

I know the White House has tried to mislead people into believing that it would. It would not. Fie on the White House! fie for attempting to mislead the people. Now, one can honestly believe what he is saying and can mislead or one can mislead with the intention of misleading.

All the Byrd-McConnell amendment would do is preserve the status quo until an environmental impact assessment, which is already underway, is completed and regulations resulting from it are issued. That environmental impact assessment was not put in motion by the White House; it was put in motion by a court action last December.

No laws would be weakened by the Byrd-McConnell amendment. No regu-

lations would be discarded. The legislative remedy that is proposed by this amendment is not an either/or proposition. This amendment would permit carefully controlled mountaintop mining while allowing work to continue on a broad environmental study that could spur better oversight and more environmentally friendly mining practices nationally in the years ahead. In my book, that is a win/win situation.

This mountaintop mining proposal is an effort to stand up for America's coal miners—and the railway workers, and the truckers, and the suppliers, and all who are involved directly or indirectly with mining. This proposal is an effort to stand up for the coal miners and the hundreds of thousands of jobs and the scores of other industries they support. Allowing this opportunity to slip through our fingers would be a grievous mistake.

We can't control what the people at the other end of Pennsylvania Avenue say. We can't control how they treat America's coal miners. But we can speak up for what we believe here in the Senate. We can send our message to the White House.

To get that message across, I hope to offer an amendment. I could speak at length on the omnibus appropriations bill when it comes before the Senate. We could be here another week. We could be here another 2 weeks.

They say time is running out for the continuing resolution. Madam President, time is running out for the coal miners and their families, and for the retired coal miners, and their wives, or their widows, and their families. Time is running out for them. The President wants this Appropriations Bill sent to him, in Greece. Indeed! What are we going to send to the coal miners who have been working for this country before he was born? What are we going to send them?

I have seriously considered this matter. This issue merits the time and the attention of Congress. I am prepared to give it some time.

I don't want to hold this measure up interminably. I want to see action on it. I want to vote. I want to vote on this amendment—the Byrd, McConnell, Rockefeller, Bunning, et al. amendment.

So, I take these few moments to speak the truth, to try to set the record straight on the impact of this amendment, of which I am the chief cosponsor, and to give this body, and hopefully the other body, one more chance this year to protect the jobs and the livelihoods of thousands of working men and women in West Virginia and throughout America, and to give the White House one more chance to reverse its current position and protect the jobs of the coal miners.

We are not just talking about coal miners; we are also talking about the coal industry; we are talking about other laborers—the truckers, the railway operators, the barge operators who go up and down the Ohio and other riv-

ers. It isn't just the coal miners union that is concerned. The AFL-CIO is concerned. Take another look! Take another look at those who are opposed and who work against legislation that will benefit the working men and women of America.

On October 20, a Federal district court in West Virginia issued an opinion in a lawsuit involving Federal regulatory agencies that virtually set off an explosion in the coal fields. Mining companies immediately announced that there would be hundreds of coal miners who would be cut off, and new mines which were in the plans by companies to be built, would be scuttled.

In some instances, a new mine costs \$50 million; it costs \$75 million in some instances; and in some instances it costs \$90 million, or more, to open a new mine. What mining company is going to invest \$90 million in a new mine when the Federal judge issues a ruling such as this? There is no predictability at all in the future.

Before the court issued its opinion, as part of a settlement the mining industry in West Virginia was operating under two memoranda of understanding—two memoranda of understanding that had been agreed upon. Hear this: Two memoranda of understanding. I didn't have anything to do with those memoranda of understanding. Who agreed? Who entered into agreements concerning mountaintop mining? Who entered into agreements concerning mountaintop mining? Who entered into the memoranda of understanding? These were agreed upon by the Federal and State regulatory agencies. Hear me now! These were entered into and agreed upon by the regulatory agencies—both State and Federal—that oversee mining permits.

What are those agencies that entered into this agreement? The Federal Office of Surface Mining, the U.S. Army Corps of Engineers, and the State Division of Environmental Protection, the Environmental Protection Agency. These are this administration's regulatory agencies. This administration's regulatory agencies entered into those agreements.

Let me say that again. Hear me.

Who entered into those regulations? Who were the parties to those agreements? This administration's regulatory agencies, the EPA, the Army Corps of Engineers, the Department of the Interior through the Office of Surface Mining, and the West Virginia Division of Environmental Protection—Federal and State agencies—created these agreements, devised these memoranda of understanding. They weren't created by me. The administration's own Environmental Protection Agency, the great Federal protector of our land, water, and air, helped to write and signed onto these memoranda of understanding.

Do you, my friends, really believe that the EPA signed agreements that weakened environmental protections?

Let me say to the White House: Do you believe that your own Environmental Protection Agency signed onto agreements that weakened environmental protections? No. No. These memoranda of understanding—called MOUs—put into place stronger environmental protections in West Virginia.

Listen to this: These MOUs put into place stronger—get it, now—stronger environmental protections and regulations in West Virginia than exist in any other State in the Union. Hear me, environmentalists; you ought to be fighting for this amendment. You ought to be urging us on in our fight for this amendment. I am an environmentalist. Who was the majority leader of the Senate when SMCRA was passed in this body, the Surface Mining Control and Reclamation Act? Who was the majority leader of the Senate then? Who stood up for you environmentalists then?

West Virginia at one time was the only State in the United States that had no wildlife refuge. I put money in Appropriations bills, to bring the first wildlife refuge to West Virginia, the last State among the 50 that got a wildlife refuge. Hear me, environmentalists. Who put the money in for the Canaan Valley Wildlife Refuge—that West Virginia refuge was the 500th in the nation? I did.

I am an environmentalist. Who put the \$138 million in for the fish and wildlife's national conservation and training facilities at Terrapin Neck, three miles out of Shepherdstown, WV? Who fought 5 years in the Senate Appropriations Committee for that \$138 million? Who fought for it in the House-Senate conferences? This Senator; this environmentalist fought for it.

Nobody wants a cleaner environment than I do. But I hope I also have some common sense. We know that in West Virginia the great core industries have fueled the powerplants of the Nation, have fueled the war machine of the Nation. The coal industry, the steel industry, the glass industry, the chemical industry, these and other core industries have employed hundreds of people in West Virginia. The core industries are still there, but they are diminishing. There were 125,000 coal miners in West Virginia when I first ran for the House of Representatives in 1952. Today, there are only 20,000, give or take, in West Virginia.

These core industries cannot always be what they once were. But there are those who want coal mining stopped now. They want it stopped tonight. They want it stopped tomorrow. Shut it down! That is what they want. But we can't do that. It can't be done overnight. People have to work. Children have to eat. Widows have to live. We have to continue to operate the mines. We are trying to develop other industries in West Virginia—high-tech industries. I have tried to encourage Federal agencies to look to West Virginia

for a better quality of life, for a safer life, where the people who work can at last buy a home, where people want to work and will turn in a good day's work.

We are trying to diversify our industries. It takes time. I have put appropriations into the corridor highways of West Virginia, so that other industries will be encouraged to come into West Virginia and to expand. They won't come where there are bad roads. They need an infrastructure that will support their industries and their people. It takes time. It can't be done overnight. Those environmentalists who want it done overnight, it can't be done overnight.

Those MOUs established stronger environmental protections and regulations in West Virginia than exist in any other State in the Nation, bar none. I say to the Administration, your own regulatory agencies agreed and worked out those regulations, and now you, the White House, want to turn your back on your own environmental agency, on your own Army Corps of Engineers, on your own Office of Surface Mining.

Peter heard the cock crow three times, and then he hung his head in shame. He denied his Lord thrice and then hung his own head in shame and walked away.

White House, hang your head in shame!

But the court's opinion, throw all these things out the window. The MOUs, the agreements that have been entered into by this administration's regulatory agencies, are all thrown out the window. The court ruled that the way in which the agencies were operating did not follow the letter and intent of the law.

Hear that. I helped to create those laws. I supported the Clean Water Act. I supported the Surface Mining and Control Reclamation Act. I supported it. But the court ruled that the way in which these agencies were operating did not follow the letter of the law and intent of the law.

Congress passed the law. The court disagreed with the way in which the Federal regulatory agencies and the State regulatory agency interpreted the law. But the court was wrong. There are 20,000 miners, 20,000 voices that come from the coal fields who say that the court was wrong. Its decision was completely contrary to the intent of Congress in passing those two laws, the Clean Water Act and the Surface Mining and Control and Reclamation Act.

While I disagree with the court, the ball is here. It is in our court now because the judge in his ruling said if application of Federal regulation prevents certain activities in the Appalachian coal fields "it is up to Congress." That is this body and the other body. He said . . . "it is up to Congress"—and the legislature—"to alter that result."

So we have accepted the responsibility. The judge said it is up to Con-

gress. We, who are supporting this amendment, have accepted that responsibility and we are trying to do something about it. We are being impeded and we are being undercut by the White House, by my own White House.

Almost immediately after the judge issued his ruling, confusion reigned. There was chaos in the coal fields. Lay-off notices went out. Mining companies announced that they might not make significant investments in the State that had long ago been planned. That is real money that has to be spent. Those are real risks they take on. As a result of the court ruling, coal companies, truckers, barge operators, railroads—none of them had any certainty that the investments they might make today would be justifiable tomorrow.

Some say, it's just a West Virginia problem. You tell the people of Kentucky that. Tell the people of Pennsylvania that. Too bad for West Virginia. But I am here to say to my colleagues it is a national problem. Look out. Look out. That cloud that is over West Virginia is headed your way next, Kentucky. And MITCH MCCONNELL knows that. That is why he is a cosponsor of this amendment. That cloud just over the border, that cloud is just over the horizon in West Virginia. You will be next. And they know it. Look out, it is coming your way next. But if you want to head it off, the opportunity is here with this amendment. This is the time to head off this dragon. Beat it back. Take the sword that I offer, that MITCH MCCONNELL offers, that JAY ROCKEFELLER offers, that Senator BUNNING offers, and all the other Senators whose names are on this amendment offer—take this sword. Take this sword, and fight for the working men and women of this Nation, and do it now.

Some may say, "I would like to. I would like to sign up. I am willing to put on the suit of armor—but what about the environment? We can't upset the environment."

Let me assure my colleagues and the people who are watching out there—let me assure you, this amendment is not the toxic monster it is purported to be by some of the environmental organizations and by this White House. It is not the toxic monster they purport it to be. In fact, this amendment puts into place in West Virginia—get this—this amendment puts into place in West Virginia the tougher environmental standards prescribed by the very MOUs that this administration's own EPA helped to negotiate. But you certainly would not know that from all of the frothing at the mouth by people who either have no idea what they are talking about, or who, for some reason, are deliberately trying to mislead the people of this country. They either have no idea of what they are talking about or they are deliberately and dishonestly trying to mislead.

Those who have expressed opposition to this amendment, including the White House, claim it would harm

clean water protections under both the Clean Water Act and SMCRA. There is not a word—not a word—of that true, and they ought to know it, the people who are saying it. As a matter of fact, as far as I am concerned, they do know it. But they certainly ought to if they don't.

This amendment would not harm the Clean Water and the Surface Mining Reclamation Acts, would not harm those protections. This amendment would not lay a hand on those protections. It would not touch—not touch them. It would not even brush up against them. This amendment specifically states—now hear this, hear this Senators—this amendment specifically states:

Nothing in this section modifies, supercedes, undermines, displaces or amends any requirement of or regulation issued under the Federal Water Pollution Act commonly known as the Clean Water Act, or the Surface Mining Control and Reclamation Act of 1977.

What could be plainer? What could be clearer? What could give greater assurance than these words that are in the amendment?

Mr. MCCONNELL. Will the Senator from West Virginia yield for a question?

Mr. BYRD. Yes, I yield to my friend, Senator MCCONNELL. Yes, I do.

Mr. MCCONNELL. So the Senator from West Virginia is referring to the sentence in a letter from John Podesta, the Chief of Staff of the President, which says:

As you know, this is consistent with the President's opposition to appropriation riders that would weaken or undermine environmental protections under current law.

I say to my friend from West Virginia—I ask him, that is simply incorrect, isn't it?

Mr. BYRD. Absolutely.

Mr. MCCONNELL. They are not telling the truth, are they?

Mr. BYRD. They are not telling the truth.

Mr. MCCONNELL. They either know it, in which case they are not telling the truth, or they are woefully uninformed, aren't they?

Mr. BYRD. They either know they are not telling the truth or they are woefully uninformed; exactly, preeminently precise.

Mr. MCCONNELL. The President came to Hazard, KY, this year, and he bit his lip, and he felt our pain. And he said: What can we do for you? I am here in Appalachia to find out what I can do for you, to make life better.

This is it, isn't it? I say to my friend from Virginia. This is what they can do for us to make life better?

Mr. BYRD. That is it, that is it, and it has my fingerprints on it, and it has your fingerprints on it, may I say to my dear friend from Kentucky.

Mr. MCCONNELL. And we have 20,000, 15,000 coal miners jobs in Kentucky, and 65,000 additional jobs that would not be there but for coal. And the only impression we can get from this is, they don't care.

Mr. BYRD. Exactly.

Mr. MCCONNELL. I thank my friend.

Mr. BYRD. What other impression could one get?

Mr. MCCONNELL. Because we have made it clear to them, haven't we, what this is all about? It does not change current law at all?

Mr. BYRD. It does not change current law at all. It doesn't touch current law.

Mr. MCCONNELL. I thank my friend from West Virginia.

(Mr. ROBERTS assumed the chair.)

Mr. BYRD. Mr. President, the White House has pressed for changes in this amendment. The White House, according to Mr. Podesta's letter to the Speaker and Mr. Podesta's letter to me, wants a "time limited solution." This amendment is limited to 2 years or to the completion of the ongoing Federal study which was ordered by a court in December of last year and the issuance of any regulations resulting from that study.

The White House argues that because the district court has stayed its ruling, the jobs of thousands of miners in West Virginia and hundreds of thousands of workers in mining and related jobs on the east coast are no longer threatened. The White House is wrong.

The court, when it ordered the stay, said this stay has no legal basis. In other words, he said: The only reason I am issuing this stay is to pour a little oil on troubled waters, let the waters calm down a little bit. All this chaos and confusion flows from my decision; I am going to put a stay on that. You can have a little time to get your breath.

But he said there is no legal basis for it, which means that the court could lift the stay. When Congress gets out of town, who knows, the court may lift that stay. The court itself, as I say, noted that there is no legal basis for the stay, but, in fact, that the stay was issued in response to the uproar created by the court's ruling. That is why we have a stay.

The administration, whose representatives had been working with me on the language of this amendment, said to me there is no need now for any legislation. Do not believe it.

The White House argues that because the district court has stayed its ruling, the jobs of thousands of miners in West Virginia and hundreds of thousands of workers in mining and related jobs on the east coast are no longer threatened. The court could lift its stay. Let me say again, the court itself noted that there was no legal basis for the stay.

We have no assurances as to how long that stay will remain in place. It provides no comfort for coal miners. It provides no comfort for mining companies who want to invest in new mines to employ more miners than their sons. It provides no comfort to others whose jobs rely on coal, such as the trucking industry, the barge industry, the railroad industry, the suppliers. To them,

the stay is a stay. It is more like a weekend pass. That stay has placed a cloud of uncertainty, a cloud that hangs over the mining industry in West Virginia, a cloud that is sprouting long, gray tentacles that will stretch across the skies of other States.

I ask my colleagues and those who are watching—and I hope the White House is watching—just how many companies do you think are going to sign up to any real commitment of financial resources and invest the millions of dollars that it takes to operate? How many of them are going to sign up with this stay hanging over their heads? Why would they want to?

The permitting process was going along swimmingly before the judge's decision. It was going along under the regulations that were agreed to and created by the White House's own regulatory agencies: the EPA, the U.S. Army Corps of Engineers, and the Interior Department through the Office of Surface Mining. Fifty-nine of 62 pending permits could not be approved under that stay. There are 62 pending permits; 59 of these could not be approved under that stay, according to the West Virginia Division of Environmental Protection as of Monday of this week.

If this amendment is not adopted, there are those who will point to this day and call it a victory for environmental protection, but those individuals have not lifted a finger—they have not lifted a finger, have not lifted the smallest finger—to help the many residents of Appalachia who do not have safe water piped into their modest homes for their little children to drink. They do not carry banners. They do not carry banners and placards and write letters and lobby Congress about the fact that those same streams they applaud themselves for protecting from rock and dirt are being polluted by the wastewater of communities that are too poor to build sewage plants.

These head-in-the-clouds individuals peddle dreams of an idyllic life among old growth trees, but they seem to be ignorant of the fact that without the mines, jobs will disappear, the tables will go bare, the cupboards will be empty, schools will not have the revenue to teach the children, and towns will not have the income to provide even basics. But what do they care? They will have already thrown down their placards and their banners and gone off somewhere else.

These dreamers—I know, I have been down there. They have been carrying their banners around some of the meetings that I have addressed. They might as well talk to the trees. I am speaking for the coal miners. I lived in a coal miner's home. I grew up in a coal miner's home. I ate from a coal miner's table. I slept on a coal miner's bed. I lived under a coal miner's roof.

Loretta Lynn sings the song "I'm a Coal Miner's Daughter." I married a coal miner's daughter more than 62 years ago. My wife's brother died of

pneumoconiosis. He died of black lung, contracted in the coal mines. And his father died under a slate fall—under a slate fall. He died in the darkness. He died in the darkness.

Many times I have gone to the miners' bath house and pulled back the canvas cover and peered into the face of a coal miner whom I knew and who had been killed under a slate fall or killed by being run over by an electric motor.

Many times I have walked those steep hillsides and helped to carry the heavy—and I mean heavy—coffins of miners who died following the edict of the Creator, when he drove Adam and Eve from the Garden of Eden, saying: In the sweat of thy brow shall thou eat bread. And those coal miners know what that means.

But this court ruling will take away the right of thousands of coal miners and truckers and railroad workers and barge operators to earn their bread in the sweat of their brow.

Hear me, coal miners! If you do not know now who your friends are, you soon will know. These dreamers would have us believe that if only our mountains—if only our mountains—remain pristine, new jobs will come. "Or," they suggest, "perhaps coalfields residents should simply commute to other areas for employment." To these individuals I say, "Get real!"

Those of you in the White House, who have been working behind my back on this amendment, go down there and talk to those coal miners. Tell them what you have done.

You do not have to drive the dangerous, winding, narrow roads over which these workers would have to commute each morning and evening.

When the picket signs are gone, when the editorials in the big city papers are lining bird cages, the people of the small mining communities will be left. You will be gone. You have thrown down your banners. You have thrown down your placards. You have thrown down your candles. But those people of the small mining communities will still be there. They will be left to repair the economic damage.

Mining will be part of the economic base of my State for the foreseeable future, and new ways must be explored to make mining practices more environmentally friendly. And I am for that. At the same time, we have to recognize that the amount of coal reserves in West Virginia is finite. We must continue to broaden our State's economic base. But such change cannot happen overnight.

A new economic base cannot spring from the ocean foam. It cannot emanate from the brain of Jove, like Minerva, fully clothed and in armor. That effort requires time. And it requires money. And if you want to know the worth of money, try to borrow some. It requires the development of improved infrastructure, better highways, more modern highways, up-to-date highways, safer highways, like those Appa-

lachian corridors that I have been trying for years to build, and for which I have been horse whipped orally and with the pen. I do not mind. I know for whom I am working. I am working for the people of West Virginia, and always will as long as the Lord lets me stand.

Water and sewer systems, accessible health care, safe schools—these are the kinds of basic facilities and programs that I have been promoting for many years. I do not carry my banner today and throw it down when the speech is over and go on somewhere else. Those coal miners are still there. And they are going to still have my attention, my respect, my reverence.

In a letter threatening a veto of legislation containing this amendment, the White House claimed to be prepared to discuss a solution that would ensure that "any adverse impacts on mining communities in West Virginia are minimized." Well, talk is cheap. But any real solution to minimize economic impact on these West Virginian communities won't be cheap.

Back in July, the President of the United States appeared in Hazard, KY, where he delivered an address to the people of Appalachia. Appalachia is my home. I was married there. Our first daughter was born there. Our second daughter was born there. I went to school there. I graduated from high school there in Appalachia.

The President of the United States expressed great sympathy for the economic distress in these mountainous States. It was an uplifting speech. He is very capable of giving uplifting speeches. It was a speech that reached out to the human spirit and built great expectations. Calling on corporate America to invest in rural America, President Clinton said: "This is a time to bring more jobs and investment and hope to the areas of our country that have not fully participated in this economic recovery." And I say: Amen, brother! Amen.

I agree with that message. It is the right thing to do. We should be bringing jobs to Appalachia. We should be bringing new businesses, too. But how can one peddle hope while undercutting the real jobs and businesses that do exist in Appalachia? If we don't act now, if the court lifts its stay, we will be back here a few months from now battling this issue all over again. It may not just be West Virginia then. It may be your own States, Senators. It may be your people, Senators. It may be your families.

There may be an appeal of the judges ruling, and that appeal may lead to a more equitable outcome. However, that appeal may simply maintain the judge's decision and put us squarely back where we have been in recent weeks, trying to address the matter Congressionally—trying to reaffirm well-established Congressional intent that has been followed for the past 20 years while striving for improvements in the way mining is conducted.

In the meantime, with the scales tipped against them, mining families

must hold on to a crumbling ledge. The heel is poised above their fingertips, ready to mash down.

We have a pretty good idea who the opponents of this effort are. But what of the supporters? Let me tell you who is standing by us: The United Mine Workers of America; the National Mining Association; the U.S. Chamber of Commerce; the Bituminous Coal Operators Association; the AFL-CIO—hear that, White House, the AFL-CIO—the National Association of Manufacturers; the Association of American Railroads; the United Transportation Union; the Norfolk Southern Railroad; CSX Railroad; the Brotherhood of Railroad Signalmen; the International Union of Operating Engineers; the Brotherhood of Maintenance of Way Employees; the Brotherhood of Locomotive Engineers; the Transport Workers of America; the Brotherhood of Locomotive Engineers; the International Brotherhood of Electrical Workers; the Utility Workers Union of America; American Electric Power.

You see, the environmentalists sent a letter to the White House, and they listed a few organizations that were supporting their opposition to this amendment. But listen to this list, too. This amendment has its friends.

I continue with the reading of the list: the Southern States Energy Board; the Southern Company; the United Steelworkers of America; the Independent Steelworkers Union—it isn't just coal miners, you see; these are brothers—the Laborers International Union of North America; the American Truckers Association; the International Brotherhood of Teamsters; the American Waterways Operators; the International Union of Transportation Communications; the American Federation of Teachers; the American Federation of State, County, and Municipal Employees; the American Federation of Government Employees—White House, it isn't just ROBERT BYRD and MITCH MCCONNELL and JAY ROCKEFELLER and Senator BUNNING, PETE DOMENICI, LARRY CRAIG, and PHIL GRAMM, and the fine Senator who sits in the Chair, PAT ROBERTS. It isn't just these. It isn't just the House delegation, the three Members of the House from West Virginia. These are not alone.

It is also the National Council of Senior Citizens.

These groups—representing millions of citizens—agree with us that a legislative remedy is needed, and is needed now. They agree that there must be a balanced approach. What this amendment does is simple. It establishes a fair, moderate balance between jobs and the environment, while also providing for additional review and regulation once the environmental impact study is complete.

It is time to put aside whatever animosity exists between the coal mining industry and the environmental movement.

I am not much for making predictions, but I can make this one: the

coming years will bring us more challenges like this, when the environment and the economy must be harmonized. Today is a test of our ability to deal those challenges ahead.

This nation can put a man on the moon. Surely, we can adopt a solution to this problem that protects the environment and protects jobs of the coal fields.

This amendment seeks to go back to the regulations and the agreements that made up the status quo ante before the judge's order—that is all we ask—the status quo ante agreed upon by the administration's EPA, by the administration's Army Corps of Engineers, by the administration's Department of the Interior, the Office of Surface Mining. That is what we ask. And we ask not only for justice, but we ask also for mercy for the coal miners and the other working people of America.

I ask unanimous consent that the names of the cosponsors and sponsors of this amendment be printed in the RECORD, and they are as follows:

Senators BYRD, MCCONNELL, ROCKEFELLER, BUNNING, REID, CRAIG, BRYAN, HATCH, BENNETT, MURKOWSKI, CRAPO, ENZI, BURNS, and KYL. I have not put forth any big effort to shop this around. I also add Senators BREAUX, SHELBY, GRAMM, and GRAMS, as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The distinguished Senator from Kentucky is recognized.

#### MORNING BUSINESS

Mr. MCCONNELL. I ask unanimous consent that there now be a period of morning business until the hour of 5 p.m. and that the time be divided in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### BYRD-MCCONNELL MINING AMENDMENT

Mr. MCCONNELL. Mr. President, I first thank my friend from West Virginia for his leadership on this extraordinarily important issue to my State and to his and, for that matter, to all the people of Appalachia where coal is mined.

Thanks to my friend from West Virginia, I had a unique experience last week. As the proud possessor of a zero rating from the AFL-CIO, I had never been invited to a rally by the United Mine Workers of America. Thanks to the distinguished Senator from West Virginia, who I assume warned the crowd to say nice things or at least to refrain from throwing anything, I joined him on the west front of the Capitol last Tuesday and had an opportunity to watch Senator BYRD in action in a different environment. I have seen him many times on the floor, always persuasive and always effective, but never before a rally largely of his

people and my people who make their livelihood mining coal.

I must say, it was a memorable experience. If I ever do my memoirs, I say to my friend from West Virginia, that experience will be in it. We have joined together today. And there are many others on this side of the aisle, and I hope we will have some on that side of the aisle, who have had enough of this administration declaring war on legal industries engaged in an honest effort to keep the engines of this country moving forward. We have a number of Republican Senators from the West, and they all informed us over the years about the war on the West. Senator DOMENICI and Senator CRAIG have educated some of us southerners about the problems they have had. And I am pleased to say I have supported them over the years, without exception, in their efforts to preserve those jobs in the mining industry out west.

Well, I would say the war on the West is moving east, and we are beginning to feel the sting. Even though this amendment was generated by a very poorly reasoned district court decision in the Federal court in West Virginia, let me say that is just the beginning, as the Senator from West Virginia has pointed out; it is just the beginning.

All the Byrd-McConnell amendment seeks to do—not just for coal mining but for hard rock mining as well—is to restore us to the existing law, at least with regard to coal mining, as the distinguished Senator from West Virginia has pointed out. The letter from the White House, from Chief of Staff John Podesta to the President, either lies or is woefully ill informed.

It is clear to this Senator that the people downtown don't care what the facts are. They don't care about the 20,000 coal miners in West Virginia and the 15,000 coal miners in Kentucky. They really don't care. I don't think they have bothered to read the amendment of the Senator from West Virginia because, as he pointed out a few moments ago with regard to coal mining, we are seeking to reestablish the status quo, agreed to and entered into by the most radical EPA in the history of the country. There is no question in my mind that whenever any environmental group in America hiccups, it is felt downtown. Anytime they object to anything, the administration falls in line.

It has been fascinating to watch this issue develop because it pits the environmentalists against the unions—truly a Hobson's choice for the administration. When they had to pick a side between the environmentalists and the coal miners in West Virginia and in Kentucky, it is pretty clear whose side they chose. They don't care about these jobs. They are not interested in reading this amendment. They really don't care what is in the amendment. They are willing to sacrifice the 20,000 coal-mining jobs in West Virginia and the 15,000 coal-mining jobs in Kentucky in order to score points with a lot of

environmentalists—who, I assume, enjoy having electricity all the time so they can read their reports—decrying the people who work in the industry so important to our States. Clinton and GORE are determined to put the agenda of the fringe environmental groups and Presidential political concerns ahead of the needs of coal miners in Appalachia.

As I said earlier in a colloquy with the Senator from West Virginia, and as he referred to in his speech, the President came to Appalachia last summer. He happened to have picked my State. He came to Hazard, KY. It was a large crowd. They were honored to have him there. The mayor of Hazard is still talking about it. It was one of the high points of his life. The President looked out at the people in Hazard, many of whom make a living in the coal mines, and he said, "I am here to help you."

Well, Mr. President, we need your help. I assume the whole idea behind coming to Kentucky was not to increase unemployment. My recollection of what that visit was about was how the Federal Government could actually produce new jobs for the mountains—something a lot of people have talked about and few have been able to deliver. Well, we would like to have new jobs, Mr. President, but I can tell you this: We would rather not lose any more of the few jobs we have remaining. That is not a step in the right direction.

We don't have as many coal jobs as we used to. The production is about the same. The employment is much smaller. Every time there has been an improvement in the coal-mining industry—whether on top of the mountain or underneath the mountain—safety has gone up, and that is important. But employment has gone down. We are not yet ready to walk away from coal in this country. We have not built a new nuclear plant in 20 years and are not likely to build any more. These people are engaged in an indispensable activity. They would like to have a little support from down on Pennsylvania Avenue. Where is the compassion? Where is the concern about these existing jobs in a critically important industry for our country?

Senator BYRD has really covered the subject, and there is not much I could add, other than just to read once again what this amendment is about. Nothing in our amendment modifies, supersedes, undermines, displaces, or amends any requirement of or regulation issued under the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act, or the Surface Mining Act of 1977. So in response to this outrageous and ridiculous court decision, we have not proposed changing the law. The judge, in his decision, has made it clear that he expects us to clear this up. He is inviting us to legislate. That is what we are hoping to do.

The EPA, the Office of Surface Mining, the Corps of Engineers, and other

relevant agencies are in the process of conducting a thorough environmental impact study. At the conclusion of this process, if any of these agencies believe it is necessary, they may create new environmental regulations addressing the practice of mountaintop mining. Some might say that Senator BYRD and I and others are trying to delay the inevitable. I argue just the opposite. I argue that, by maintaining the status quo and allowing the EIS to move forward, you allow coal operators the ability to make the long-term plans essential to the viability of this industry.

So there are only two things you need to remember about our amendment: No. 1, it doesn't alter the Clean Water Act. No. 2, it doesn't alter the Surface Mining Act. It seeks to preserve the status quo.

I say to all of you who you are going to be down here asking us someday to help you save jobs in your State because of some outrageous action on the part of this administration—and some of you have done that already—we need your help. We need your help. This is an extraordinarily important vote to our States. The honest, hard-working people who make their living in the mines are under assault by this administration, and we would like to call a halt to it. We hope we will have your help in doing that.

Let me conclude by thanking again the Senator from West Virginia for his extraordinary leadership on this important issue to his State and to my State and, frankly, we believe, to a whole lot of other States because the principle is very sound. We call on our colleagues from the West—even those of us who have been voting with you over the years weren't quite sure what it was all about, but we have figured it out. This whole thing is moving its way east. We need your help.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from Idaho is recognized.

#### ORDER OF PROCEDURE

Mr. CRAIG. Mr. President, I ask unanimous consent that following my statement, Senator ROCKEFELLER from West Virginia be allowed to speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### EXTENSION OF MORNING BUSINESS

Mr. CRAIG. Mr. President, I ask unanimous consent that morning business be extended until 5:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### BYRD-McCONNELL MINING AMENDMENT

Mr. BYRD. Will the Senator yield?

Mr. CRAIG. Yes.

Mr. BYRD. Mr. President, I forgot to mention the specific names of two Sen-

ators cosponsoring this amendment. The two are Nevada Senators, Mr. REID and Mr. BRYAN. I wanted to mention their names for the RECORD.

Mr. CRAIG. Mr. President, I am glad the Senator from West Virginia has included our two colleagues from the State of Nevada. Today, Nevada is probably the lead mining State in our Nation as it relates to the production of gold.

For the last hour you have heard probably some of the most eloquent statements spoken on this floor on the issue of coal mining. The Byrd amendment does not deal only with coal, although it is extremely important, and the public attention of the last week has been focused on a judge's opinion about coal, coal mining in West Virginia, Kentucky, Pennsylvania, and up and down the Appalachia chain of this country.

But the amendment also has something else in it that my colleague from West Virginia and I agreed to some time ago: When we talk on this floor about mining, when we talk about the economy of mining, the environment of mining, and the jobs of mining, we would stand together; that we would not allow our political differences to divide us. Because if you support the economy of this country, you have to stand together.

I am absolutely amazed that the Speaker of the House or the senior Senator from West Virginia would get a letter from the White House of the kind to which both he and the Senator from Kentucky have referred. Lying? I hope not. Uninformed? I doubt it. Here is the reason I doubt their lack of information.

For the last 7 years, this administration has been intent on changing current mining law. I am referring primarily to the law of 1872. I am referring primarily to hard-rock mining on public lands, because the laws that the Senator from West Virginia referred to that were passed in 1977, the Surface Mining Control and Reclamation Act, have become law, and established the principles and the policies under which we would mine the coal of America.

Then, on top of that, came the Clean Air Act, the Clean Water Act, and the National Environmental Policy Act—all of them setting a framework and a standard under which we could mine the minerals and the resources of this country and assure our citizens it would be done in a sound environmental way.

As the laws of West Virginia, which are the laws of America, which are the laws this Senate passed, apply to coal mining, at least in the instances of the Clean Air Act and the Clean Water Act, they, too, apply to the mining of the west—to hard-rock mining, to gold mining, to silver mining, to lead and zinc mining, and to open-pit gravel operations of America.

Yet there is an attorney—not a judge, not an elected U.S. Senator, but an attorney—who sits at a desk at the

Department of Interior and upon his own volition 2 years ago decided he would rewrite the mining law of this country—a law that had been in place since 1872, tested in the courts hundreds of times, and that in every instance one principle stood out and was upheld. That was the principle of mill sites and how the operating agency, primarily the BLM, could, upon the request of a mining operation under a mining plan uniform with its processes, ask for additional properties under which to operate its mine. Consistently, for over 100 years, the Federal agencies of this country have granted those additional mill sites.

The attorney I am referring to, prior to his job with the Secretary of Interior, was an environmental activist. In the late 1980s, he wrote a book. His book decried the tremendous environmental degradation that the mining industries of America were putting upon this planet. In that book, he said there is a simple way to bring the mining industry to its knees. "If you can't pass laws to do it, you can do it through rule and regulation." Those are his words. He wrote it in the book, which was well read across America.

When I asked that solicitor to come before the subcommittee I chair, which is the Mining Subcommittee, I quoted back to him his own words and said: If that is not what you said, then what are you doing now? He didn't say yes, but he didn't say no. Here is what he did say. He said: I have reached out to every State director of every BLM operation in this Nation, and I have asked them if the process I have overruled by my decision is a process that has been well used by the agency. He said they responded to him: Not so—very lightly used and only used in recent years.

The tragedy of that statement is that it was a lie because the Freedom of Information Act shows that every State director wrote a letter to the solicitor a year before I asked him the question and every State director of every State office of the Bureau of Land Management said this is a practice in our manuals and has been used consistently since the 1872 law was implemented.

What did solicitor John Leshy do before the Mining Subcommittee of the Senate? He perjured himself. That is what he did. And the Freedom of Information Act shows that.

I would say to the Senator from West Virginia and the Senator from Kentucky, my guess is that the informational mind that wrote the letter that John Podesta sent to you came from an agency that had already perjured itself before the U.S. Senate. I know that as fact. I give that to you on my word and with my honor.

Therefore, in the Byrd-McConnell amendment is a provision that said: Mr. Leshy, you cannot arbitrarily or capriciously overturn over 100 years of mining law. That is not your job. You are a hired attorney. You are not an



elected Senator or a President. That is our job—to change public policy and to do it in a fair and sound environmental way.

We are all environmentalists. The senior Senator from West Virginia said it so clearly. I say what I mean. And we all know as politicians and public people that none of our colleagues have ever run on the dirty air or the dirty water platform. We are all proud of our environmental records. We want the air and the water to be clean.

But have you ever driven to the mountains of the west or the mountains of West Virginia? They are rugged and steep. We must craft unique policies and procedures to mine the wealth from underneath those mountains. It is a tough struggle. We know it. We have learned in the last decades to do it in a much better way than our forebears. That is called good environmental policy and good stewardship.

Every one of us is an environmentalist. But we are not radical preservationists who would deny the thousands of working men and women in West Virginia and Kentucky no food for their table, no money in their pocket, or no education for their children. If you don't like the environment here, get in a car and drive down the road. To heck with your job and to heck with you.

I understand the young person in urban America today sitting at his or her keyboard, working the high-tech economy of our country, saying to the Senator from Idaho, West Virginia, and Kentucky: What are you talking about? Does it make much sense? We want a clean environment. Save the mountains of West Virginia, Idaho, Nevada, and Kentucky, and the plains of Texas.

Let me say to that marvelous young American sitting at his or her keyboard: As you touch that keyboard tonight, and it lights up for you and it energizes, it is the electricity generated by the coal of West Virginia that gave you the power to reach the Internet and to reach the stars beyond. That power surge through connections created of gold and silver came from the mines of Idaho, from the mines of Nevada, and from the Western States.

Please, America, broaden your vision of what it takes to make the leading economy of the world work so well.

It is our clean air, it is our clean water, and that we are proud of. But 60 percent of America's electricity is generated out of the coal mines of America, and the connections that create the fluidity of the flow of that electricity so there is less restriction is the gold and the silver of the West. That is what makes our country work so well. That is what makes our country the cleanest country in the world.

Our leadership, our policy, our clean coal technology, our ability not to tear up the Earth anymore—but when we do, we replace it, we reshape it, we change it—that is our law that causes it to happen. That is the law that this

Senate crafted. So, no, we cannot be extreme nor can we be radical. We have to offer balance and we will offer that in the context of the best environment we can create.

I will not forget, when I asked Alan Greenspan to come before the Republican Policy Committee this spring to talk about surplus and how we handle them, afterwards I said: Mr. Greenspan, you watch our economy everyday; why is it so good? Why is it literally pulling the rest of the economy of the world with it? Last month, unemployment in this country was 4.1 percent; average wage, \$13.39 an hour, the highest average wage ever and the lowest unemployment rate in 29 years. And we do it with the cleanest of the environments of the developed nations of the world. Why do we do it? Mr. Greenspan said it well: We just know how to do it better than anybody else. We know how to mine better than anybody else. We know how to create economies better than anybody else and, in almost every instance, we do it with the minimal form of government regulation.

The Senator from West Virginia makes a very clear case. It isn't that West Virginia was trying to do it better. They were. It is that this White House won't support this effort. They have not chosen to follow the route of the environmental community. They have chosen to follow the word of a few radical preservationists who would ask young Americans to turn on their computers tonight to the light of a candle. If it is the light of a candle that will lead this world, computers will not turn on, the economy will not energize, and the men and women of West Virginia will go hungry.

I support the Senator from West Virginia because he supports mining, as I do. It is time our Senate and the House bring balance to this issue. I hope they support attaching this critical amendment to the continuing resolution.

I yield the floor.

THE PRESIDING OFFICER (Mr. SESSIONS). The distinguished Senator from West Virginia is recognized.

Mr. ROCKEFELLER. I note the presence of the Senator from Louisiana on the floor. I inquire if the Senator wishes to speak at some point on this subject.

Ms. LANDRIEU. I thank the Senator. I do wish to speak. I am happy to wait until the Senator has completed his remarks, if he could let me know how long he will be.

Mr. ROCKEFELLER. I will speak, then the Senator from Texas will speak, and then I ask unanimous consent that the Senator from Louisiana be permitted to speak.

THE PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. I thank my distinguished senior colleague who has been daunting and relentless in his pursuit of his amendment, which is a very good amendment, an amendment which deserves to be passed.

What is fascinating to me has been said before by others. I will go back to

the letter from John Podesta at the White House, the Chief of Staff to the President. He said that any solution that would undercut water quality protection under the Clean Water Act, or under SMCRA, the Surface Mining Control and Recreation Act, simply is unacceptable, and that the President's opposition to appropriations riders that would weaken or undermine environmental protections under current law would be unacceptable.

I emphasize as strongly as I possibly can he is wrong in that statement. The fact that he is wrong in that statement is of the utmost importance to our colleagues if they or their staffs are listening as they come to a decision about this amendment. If he were right, that would be an entirely different matter. However, he is not right. To make it perfectly clear, we have included that in the legislation that Senator BYRD and Senator MCCONNELL put forward. I will read it again for those who may not have been listening before: Nothing in this section modifies, supersedes, undermines, displaces or amends any requirement of or regulation issued under the Federal Water Pollution Control Act or the Surface Mining Control Reclamation Act of 1977.

It would be law. It is the case, in any event. We added this not because we thought it would be fortuitous to add it, not because we needed to add it, but because it was true at the outset. We did it to make the point even clearer for those who would raise this point.

Senator BYRD made the points most clearly and most powerfully. This amendment, on which we are asking for support, simply puts into law the memorandum of understanding which I hold in my hand, which has been signed off by the Environmental Protection Agency, by the Office of Surface Mining in the Department of Interior, and by the Corps of Engineers. The signatures are here—the signature from the Environmental Protection Agency, a very high senior official, the signature from the Regional Director at the Office of Surface Mining, the signature from the brigadier general of the U.S. Army Corps of Engineers, and the signature from an official in West Virginia.

The point is the Environmental Protection Agency has approved, and the OSM and the Corps of Engineers have approved and given their official written stamp of approval in writing, right here. This equals this amendment. There is no difference therein. I am not one who either baits or ridicules the environmental movement nor do most of my colleagues.

This country is constructed under the republican nature of its form of government as a system of checks and balances. I have a tremendous interest in health care public policy. I spend a lot of time being upset with the Health Care Finance Administration called HCFA. There are people, obviously, who are upset by EPA. By and large, I

think EPA tries to do within its own understanding the best job it can. By and large, I think one of the reasons the environmental condition of our country is gradually improving, although slowly, is because some of those people take positions which are not popular with members of this body or the other body or with Governors or with the public. I do not ridicule what they do.

However, I do think they know in their hearts that what Senator BYRD and Senator MCCONNELL and some of the other Members are trying to do is completely consistent with the intent of Congress, in fact, in the case of SMCRA, for over the last 20 years.

Let me say this before I talk about the importance of mining in West Virginia and the problems of simply potentially eradicating coal mining—not just across West Virginia and Kentucky but, if this were to be extended and this were to catch fire, eradicating the potential for the 57 to 60 percent of electricity which is fueled by the use of coal across this country—that there is a balance. I recognize, sometimes when people say that, people say that is a word they use to get out of this situation or that situation. But this country has to run on a balance. One cannot simply say to southern West Virginia, to central West Virginia, to northern West Virginia, to other parts of our country: We are going to make these enormous changes, very radical in their content today because tomorrow will be a new day, because transition in America somehow just simply happens, and we move from one sort of a core industry type of economy in West Virginia to a modern, totally smokeless type of economy, and there does not need to be any interruption. So we will come in and we will stop this business called mountaintop mining.

In the process of that, we are probably, unless this amendment is agreed to, going to stop much of the underground mining of West Virginia and Kentucky and the 13 to 16 States in this country that produce coal because the effect under the law, under the judge's rule, says this can happen.

I want my colleagues to understand something about my State of West Virginia. We are not on the coasts. We do not have the advantage of the trade that flows to the Atlantic coast or the Pacific coast. We do not have the advantage yet, entirely, of the access that comes from the interstates that cut through our mountains and would allow us to become part of the flowing economy that so much of the rest of the Nation simply takes for granted. But most importantly, let me say to my colleagues, and let them hear this, please, with understanding: Only 4 percent of the land of West Virginia is flat. Only 4 percent of the landmass of West Virginia is flat. All of the rest of it is going uphill or going downhill, either at great steepness, very great steepness, or somewhat lesser steepness; it is not flat. Only 4 percent is flat.

Imagine, then, trying to construct an economy, an economy developing, much less the life of schools, the life of families, the life of recreation, the life of a State, on 4 percent of the land and then moving up the side of hills, where one can do that, and hoping the winter will pass quickly because it is very hard to plow those roads. It becomes a very difficult situation in the southern part of our State.

You cannot simply say we mine coal today and we do biotechnology and information technology tomorrow. You cannot walk across the Grand Canyon in one step.

Senator BYRD and the junior Senator from West Virginia, together, in different ways, have been trying very aggressively, over the last number of years, to modernize the economy of West Virginia. We have been doing so with a respect for our basic industries—steel, chemicals, coal, wood, natural gas, et cetera—but also understanding that the world is changing, that we are globalized. This Senator has spent the last 15 years making trips back and forth to various Asian countries, trying to globalize the economy of West Virginia through reverse investment and through the increase of exports. Indeed, the increase of exports in the last 5 years has gone up by 50 percent in West Virginia. So we are making progress.

But we do not start from the base that so many other States have. So what happens in southern West Virginia if the Senate or the Congress turns its back on this amendment is something I would like people to think about. We would lose approximately \$2 billion in wages. Senator MCCONNELL, in his very good remarks, mentioned 4.1 percent of people are unemployed in this Nation. That is not true in the part of the State that we are talking about, in West Virginia. The counties I would mention would be six. In McDowell County there is over 14 percent unemployment today. The reason it is not higher is because so many of the people who were there have left. If they had stayed there, the figure would be much higher.

In Mingo County, which has a lot of coal reserves of very high quality—that is high Btu, low-sulfur-content coal—it is over 14 percent, over 14 percent. The national average is 4.1 percent—that is terrific, in Connecticut, Colorado, other places. I am proud of that, happy for that. But in Mingo County it is 14 percent. In Boone County it is less than that; it is 13.9 percent. A lot of our low-sulfur, high Btu, highly desirable for the making of steel coal is produced in that county; Logan County, 13.5 percent; Lincoln County, almost 11 percent; Wyoming County, almost 11 percent.

Can one understand what that means to me as a human being, much less as a U.S. Senator, when one struggles in land which is so steep, so desperately steep, land which used to be, many millions of years ago, higher than Mt. Ev-

erest? Because that is what the Appalachians were; they were the tallest mountains in the world. Over these millions of years, they have been ground down, but they have not been ground down to a level where economic activity is readily accessible. We cannot put the great big highways so easily into that kind of terrain.

Senator BYRD has done a remarkable job in trying to do that. But not all those roads have been built, and only a couple of those have been built in southern West Virginia because the cost per mile is so prohibitively high. Even if the Federal Government provides the money, the State can't match it. So progress is slow.

I also want to say something that is very important to me personally. This Surface Mining Act goes back to when I was Governor. The Senator from Idaho made those comments. I did not agree with everything the Senator from Idaho said, incidentally, about either the Environmental Protection Agency or other things, but I agree with the thrust on what he wants to do with this amendment. But I was Governor of West Virginia at that time. We were faced with this question of what we were going to do about surface mining and the Federal act.

I will say two things. One is that I have known for a long time, and I have been told by many people in and out of government, that a good deal of the Federal act was based upon what it was that we were doing, what it was I was causing to happen as Governor in West Virginia, in the way that surface mining was carried out. In other words, West Virginia, I will then say from that statement, has a higher level of requirements of surface mining than do other States and higher, in general terms, I might say, than the Federal Government.

But I also want to say Cecil Andrus, who is from the West and was tough—he was a tough Department of Interior Administrator, Secretary of the Interior—gave West Virginia something called primacy on surface mining.

All of this we are talking about—surface mining being the opposite of underground mining; anything that is not underground is surface; whether it is mountain mining or surface mining, it is all up above the ground—he gave us primacy. We were the first State in the Nation and the only State for quite a period of time to receive primacy.

What he was saying by that is that you in West Virginia do your surface mining reclamation so well that we are going to give you the authority to go ahead, and we will back out of it completely; we have no jurisdiction anymore; you have jurisdiction unless you start to do things which are wrong. Then we will take it back.

I was very proud of that. That caused me to have some of the views I have today.

When we talk about not gutting the Clean Water Act or not gutting SMCRA, we in West Virginia cannot afford to gut, so to speak, those Federal

acts in a far more intense way than most other States because if we do, we are hurt by them much more than other States because of the enormously mountainous, hilly nature of our State, with only 4 percent of it being flat. All the rest of it goes up or it goes down at one level or another. We have to respect the laws.

Mountain mining has changed a bit over the years in the sense that it has gotten rather larger in the area it covers. Most of us in Congress understand that mountaintop mining in West Virginia is never going to be the same. In fact, the congressional delegation in the House and the Senate wrote an article in the West Virginia papers in which we said it is true, it never is going to be the same.

It may be possible we cannot afford to have, as far as the mountains are concerned, these enormous areas that are mined all at once. But when somebody comes along and says, oh, you should do that, you should restrict the size because you can't fill valleys, they are wrong. Under the Federal law, they are wrong. The Federal law specifically provides for that. I will not read it. I will simply hold it up. Here it is in SMCRA. It specifically provides for being able to do valley fill.

If the Federal judge who made this decision in West Virginia wants to eliminate that—but then again, in his opinion recently, he said: Nothing I am saying here is anything on the basis of merit; it is all on the basis of saying we want a little peace and calm so that the Federal Government, the Congress, can litigate on this matter and decide what needs to be done, which is why Senator BYRD, Senator MCCONNELL, and a number of us went ahead with this amendment.

We did have a system whereby the two sides—I do not even like to use the words “two sides”—the environmental community and the industrial community, could come together and work together. We had a system in which one of the people who works with me spent 5 weeks in the coal fields working with the environmental people, working with the State people, working with the mining people, working with the union people. They came very close to almost a total agreement on what should be done. There was only one area on which they could not reach final agreement. It was something called a buffer zone. They could have reached a final agreement. Then the Corps of Engineers came along and blew the whole thing out.

I appeal to my colleagues to understand there is a role and a place for reason, compromise, balance, and sensible action in all of this. This world is not divided between people who are strictly environmental in their purposes and people who are strictly for jobs in their purposes. There has to be that balance.

Global warming is a fact. I do not dispute the science. I look around me; I feel the temperature; I understand

what is going on. On the other hand, at the same time I have those feelings in my bosom, having to speak grown up as an adult, as a VISTA volunteer in the southern coal fields of West Virginia, that these people who are mining coal—the coal miners Senator BYRD talks about so eloquently—are doing what they know how to do and doing it the best way they possibly can.

If we are not able to get our amendment accepted, if the judge lifts the stay, if his decree goes into effect, mining will more or less cease to exist in West Virginia because nobody will invest; nobody will say: All right, let's just wait for a couple of years and then we will come back and look at West Virginia. That will not happen. It will be more or less the end of mining in West Virginia, not just in southern West Virginia, but it will probably be all over West Virginia because everywhere there are effects of the judge's opinion.

We have to have both. We have to have a way for people to provide the electricity the Senator from Idaho talked about to turn on those computers. We have to have a way to light up this Senate and to light up the homes of people all over America. As I indicated, 57 to 60 percent of all the electricity in this country is made by coal. It is not made by nuclear power. It is not made, at this point, by natural gas. It is made by coal. It is a fact of life. Reasonable people understand that.

You cannot just obliterate that and pretend there are not going to be consequences. Nobody wants economic devastation. I do not think any of our colleagues want economic devastation on the State of West Virginia. I do not think that is in their hearts; I do not think that is what is in their minds; but that is what is in the process of happening unless this Byrd-McConnell amendment is, in fact, agreed to and becomes part of the national law. All it will do is put into law precisely what the Environmental Protection Agency, the Office of Surface Mining, and the Corps of Engineers have officially signed off on as policy.

The stakes are tremendously high in West Virginia, and the stakes are tremendously high not only in Kentucky but all across this country. This is kind of a watershed decision we are about to make. Are we going to find some kind of a compromise, a way of working things through, or are we going to deem each other to be enemies, one to another, one on one side, one on the other—one environmentalist, who either feels or is deemed to feel they have no interest in jobs—which I doubt because environmentalists are people, too—or on the other side coal miners who then turn on environmentalists as being totally hostile people. All that does is degrade the content of public discussion and degrade the possibility of a reasonable resolution.

I hope very much this amendment will be adopted. I regret very much the

White House has been so difficult on this whole matter, having given their word to the senior Senator from West Virginia and then reversed it the next day, having given their word on matters of steel during the course of a campaign in the northern part of our State and then reversed their view on that. One almost wonders whether or not there is an assault that is taking place on West Virginia.

But we are struggling. We know that along with two or three other States, we have more economic problems than any other State in the country. We live with that. We live with that every day. We try our very best. Senator BYRD, and this Senator, and our congressional delegation, try our very best every single day to try to improve the economic situation of our State, bringing in new industry that does not create any kind of pollution or industries that are entirely smokeless and entirely of a new order. But it cannot be done, as Senator BYRD said, overnight.

So you cannot have a crashing decision which descends on the good people of southern West Virginia and northern West Virginia that deprives them not only of their self-respect but of their ability to eat, to get medical care, or to exist as human beings.

We have not distinguished ourselves in this country in taking men or women in their 40s or 50s or 60s, and saying: All right. You are finished as a coal miner. Now we are going to train you to do something else. We talk about it all the time, but we do not do it. We do not know how to do it. The Canadians do; we do not.

So to banish people into oblivion is not something which is common with the practices of the soul of America, any part of the soul of America, or any part of the soul of this body. That is what would happen, however, were this amendment to fail.

I commend to my colleagues the integrity of the Byrd-McConnell amendment; I commend to my colleagues the honesty and the environmental soundness of the Byrd-McConnell amendment; and I commend to my colleagues the enormous crisis which potentially will take place if it fails because, as has been said, what starts in West Virginia—because this has now been picked up by the national movement—will move from State, to State, to State, to State.

Mr. BYRD. Mr. President, would my distinguished colleague briefly yield for a comment in connection with something he said?

Mr. ROCKEFELLER. I certainly will. Mr. BYRD. Mr. President, when I went up to Rhode Island on Saturday, a few weeks ago, to attend the funeral services of the late Rhode Island Senator John Chafee, the national press people—the Washington Post, the New York Times—who were right on that plane indicated that the administration was supportive of that amendment. That was on Saturday.

I had run the language by the administration's representatives, who come

to this bill often. I hoped the administration would support the language. So I was quietly running the language to the administration and certainly getting the support of the administration—if not openly, at least they were not opposed to it. We were working with them tacitly.

The very next day the tune changed, and the newspapers announced the administration was against the Byrd amendment. So they flip-flopped over night; they made a 180-degree turn over night. One day I had the confidence of them. They were looking at the language, making any responses they wished to make to express their viewpoint. The next day they were 100 percent on the other side.

So I say this amendment is a test. I say to the working men and women of America, do not believe the pretty words you may hear. Pretty words are easy. And I have heard pretty words myself. Watch what happens with this amendment, I say to the working men and women of America. Watch what happens to this amendment. See if the actions of those who say they are your friend do match those pretty promises.

I thank my distinguished friend and colleague. I am pleased to associate myself with his remarks. Well done, my friend.

Mr. ROCKEFELLER. I thank my senior colleague and I yield the floor, Mr. President.

The PRESIDING OFFICER. Under the previous order, the Senator from Texas is recognized.

#### SOMETHING IS OUT OF BALANCE IN AMERICA

Mr. GRAMM. Mr. President, it is easy when you come to work every day in the most historic and important building in the world to forget you are part of history—to forget you are in a sacred place where history has been made in the past. But it is even easier to forget you are making history now.

But I am reminded that we are making history now when I listen to Senator BYRD speak with righteousness on behalf of the working people of West Virginia. And might I also say, I have never heard a more eloquent speech in the Senate than Senator CRAIG's speech that he gave earlier.

Having heard those speeches—including Senator MCCONNELL's and Senator ROCKEFELLER's—I do not want to rise to talk about the substance. I do not think you can improve on what they had to say. But there is an important point, at least in my mind, that I want to make; and that is, something is wrong in America. Something is out of balance in America.

If tomorrow in West Virginia a sub-species of crickets develop that have legs 6 millimeters longer than crickets as we know them, or that have brown or white specks on them, they would be protected before the law. They would be protected by the Endangered Species Act. There would literally be thou-

sands of people who would be willing to troop to West Virginia and hold signs and demand that this new sub-species of crickets be protected.

But yet when the livelihood of people who hear that alarm ring at 4:30 a.m. in the morning—and if you grew up in one of those houses—I know Senator BYRD did—the next sound you would hear is those two feet hitting the floor. It is predictable. You know what is going to happen, whether it is raining or whether it is not raining. These are people who get up every day, who work hard, who struggle to make ends meet, who sit down around the kitchen table on the first day of the month and get out that stub they got with their paycheck. Then they take the back of an envelope, or a piece of paper, and they try to figure out how they are going to be able to pay their bills, and who they can get by without paying this month. They contribute to America by producing things America needs.

I think something is out of kilter in America when our laws are more focused on protecting sub-species of crickets than they are focused on protecting people who earn a living with the sweat of their brow and with their hands.

I think something is very wrong in America when there does not seem to be much focus on working men and women. And what was moving to me about Senator BYRD's speech is he was speaking on behalf of the people who work with their hands, and who work for a living, and who often do not have much of a voice in American Government.

I am not here to criticize people who have focused, in some cases, their lives, their civic activity, and their leisure time activity on the environment. But I think something is wrong when, in focusing on the environment, we forget about people who work for a living and are affected.

I think, in some cases, environmentalism has gone too far. I think, in some cases, that it has become anti-growth. Maybe that makes sense if you live in a fancy air-conditioned house and if your children have gone to college. If you have boundless opportunities, it makes sense to say we need to protect the environment at all costs and that there is no burden that is too great to bear. After all, the person saying that already has a piece of the American pie and has already generally lived the American dream.

But I think what Senator BYRD has reminded us of is that not every American has lived the American dream. Not every American has gotten a piece of the pie.

I think when we have focused so much on a sub-species of crickets, it is about time that people in the Senate stand up and say: What about people who make a living in the mining industries of this country—people who have had placed on their livelihood less weight by American law than we place on the assumed well-being of sub-

species of crickets? I think something is out of balance in America. I think we need to bring it back into balance. I think we need to remind people who are so concerned about one particular element of the environment that there is no more basic part of the environment than the ability of the people in West Virginia, or Kentucky, or Texas, or any other State in the Union to make their house payment, or their ability to earn a livelihood, or their ability to have self-respect in their own worth of what they do.

We are not talking about tearing down America's environmental laws. No country in history has a better environment than we have. No country has spent more resources and legitimate effort on their environment than we have.

#### EXTENSION OF MORNING BUSINESS

Mr. GRAMM. Mr. President, I ask unanimous consent that morning business extend until 6 p.m.

The PRESIDING OFFICER. Is there objection?

Mr. WELLSTONE. Mr. President, reserving the right to object—and I shall not—there are some of us who would like to speak on this debate concerning this particular issue and who have been waiting for a while. Could we get some sequence of order perhaps?

The PRESIDING OFFICER. Under the previous order, Senator LANDRIEU is to follow, and Senator KOHL is to follow Senator LANDRIEU. There is no UC. Senator LANDRIEU was the last covered.

Mr. GRAMM. As far as I am aware, we have gone back and forth from the Democrat side to the Republican side. I have listened to five other people speak. I have been well served by hearing their speeches. I will be as brief as I can.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that I be in order of sequence on the Democratic side as we move back and forth.

Mr. GRAMM. Mr. President, reserving the right to object, if we could simply accommodate every speaker, while realizing that we are waiting for the omnibus bill to come over from the House, may I suggest we amend that unanimous consent request so that the Senator be recognized in the order of the sequence we have, but that when the omnibus bill comes over from the House, it continue to take precedence?

Mr. KERRY. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. It is my understanding the Senator appropriately asked for an extension until 6. It is my understanding the Senator from Louisiana wants to speak for only 10 minutes, or less. The Senator from Minnesota wants 5 minutes. I think if we could get an order, we could contain it within the time and everybody would be satisfied. I ask the Senator from Alaska how long he wants to speak.

Mr. MURKOWSKI. In responding to my friend from Massachusetts, about 6 minutes. I am satisfied if we go back and forth, as suggested, it would concur with the unanimous consent agreement pending.

Mr. KERRY. I ask unanimous consent that following the Senator from Texas, the Senator from Louisiana be recognized for 10 minutes; following that, the Senator from Alaska be recognized for 5 minutes; the Senator from Minnesota for 5 minutes; and I would like to follow the Senator from Minnesota for 5 minutes.

Mr. LOTT. Reserving the right to object.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. To clarify that, when the District of Columbia appropriations conference report and its parts arrive, that will be taken up at that point regardless of the order. But then, of course, when that is completed, we can go back to this order.

Mr. KERRY. Mr. President, again, may I ask the distinguished majority leader: I think we have such a tight containment here, there are some who have some problems off the floor. So it may be that he would be held up by about 5 minutes, I think, in total.

Mr. LOTT. If it is something like that, it should not be a problem. But they are voting in the House at this time, so the papers will be headed this way. Rather than holding up the debate getting started, I think with the order we have lined up, we should be all right. I think we could extend the colloquy to the point where we couldn't do the business of the Senate.

Mr. KERRY. Would the majority leader then permit us to put in place the request we have made?

Mr. LOTT. I withdraw my reservation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas.

Mr. GRAMM. Mr. President, it is obvious that there are a lot of people who want to speak. Let me sum up by saying that in an era where I think we have gotten Government out of balance, where extremist elements are determined to impose their will and their values—often at the expense of the jobs of people who work with their hands and who, in the process, contribute to America—when we become callous to the needs of working people by catering to people who are often quite well off and quite successful and quite comfortable, who, in some cases, would put their interests and their hobbies ahead of working people, it is very important that we have someone such as Senator BYRD who pulls us back to reality.

I think Senator BYRD mentioned my name as a cosponsor. But just in case he did not, I ask unanimous consent that my name be added.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. I am proud to support this amendment. I think the adminis-

tration has become dominated by people who are more concerned about specific elements of the environment, as they define it, than they are concerned about the environment based on good science. I think they are more concerned about their values than the well-being of the people who do the work and pay the taxes and pull the wagon in America.

It is easy for a planner or an idealist to set out a policy and act as if destroying the livelihood of a coal miner is as irrelevant as simply overturning a regulation. But we know the difference between a regulation and the livelihood of a coal miner. It is because we know the difference that we are here.

I hope this amendment passes. I hope it sends a clear signal that the Clinton administration has become an extremist administration in terms of the environment. This is a bipartisan effort. I think it is important. I think it pulls us back to the center in recognizing we want a better environment. But we want to look at costs and benefits. We want to look at science. When we are putting thousands of people out of work, we ought to stop and reflect on what we are doing. Senator BYRD is asking us to do that today. I am proud to join him in this effort.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

#### NATIONAL ADOPTION MONTH

Ms. LANDRIEU. Mr. President, I am appreciative of the 10 minutes granted to speak on a different subject. I understand that mining is an important issue and deserves our attention. Until it is resolved, we will probably be working for many days. I know that the Senior Senator from West Virginia feels very passionately about this issue, and other Members may want to add their remarks as the evening goes on, so I will try to be brief.

A week from tomorrow, many of us will head home to be with our families and celebrate Thanksgiving. In my mind, it is extremely appropriate that Thanksgiving falls in this month, which many of you know is National Adoption Month. For like Thanksgiving, National Adoption Month is a time not only for celebration but also for reflection.

So let me begin with some facts about adoption that people may find interesting in hopes that this would be something the American people will embrace. In 1992, the last year for which adoption statistics were available, there were 127,000 children adopted in the United States. Forty-two percent of these children were adopted by step parents or relatives; 15 percent of these adoptions were from foster care; 5 percent adopted children from other countries; and 37 percent of these children were adopted by private agencies.

The poster behind me is a collage of just a few of the 130,000 legally freed children awaiting permanent families.

Some of them are only children and some are sibling groups, some are younger children some are older. Although they are all different, all of these beautiful children are looking for someone to love and care for them and to make them a part of their home.

The fact remains that there are half a million children in foster care. By way of comparison, allow me to refer to a hometown landmark, the Superdome. The Superdome has hosted several superbowl—the Saints have never been to one there, but other teams have. We can seat about 80,000 people in the Superdome. To get an accurate vision of the number of children, picture 5 superdomes filled with children, one in every seat. That is a lot of children—if you think about one in each seat in five Superdomes—in need of homes in America.

The average age of children in foster care is 9.5 years. The problem is many children spend the average of 3 years in foster care. Three years is too long to live without the love and security of a permanent family. We need to shorten that time. If a child has to be removed from their biological parents because of terrible, unfortunate circumstances, they should spend a short time in foster care and then be placed permanently with a loving family. Seventy percent of the children available for adoption and foster care are under the age of 10. They should not spend their tender years without a home.

True, we are making progress and we should be proud. In 1996, 28,000 children in foster care were placed in permanent homes. It is projected that, in 1999, the number will be 36,000, an increase of about 30 percent.

In celebration of those who made this progress possible, the Congressional Coalition on Adoption instituted a wonderful idea that we hope will go on year after year, The Congressional Angels In Adoption. We asked all of our colleagues to send in recommendations for individuals in their respective States and districts who had done something extraordinary in the area of adoption. I would like to submit for the RECORD a list of the 55 families who have been nominated and selected for the first 1999 Angels In Adoption Awards.

I ask unanimous consent that this list be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### 1999 ANGELS IN ADOPTION

Freddie Mac Foundation, Virginia, Nancy Kleingartner, Bismarck, North Dakota, Jeff and Earletta Morris, Marshalltown, Iowa, Earl and Judy Priest, Caldwell, Idaho, Dave Thomas, Dublin, Ohio, Peter and Mary Myers, Sikeston, Missouri, James and Denise Jones, Grand Rapids, Michigan, Fletcher Thompson & Jim Thompson, Spartanburg, South Carolina, Carol McMahon, Pittsburgh, Pennsylvania, Lori and Willie Johnson, Russellville, Arkansas, Candice Mueller, Ewing, New Jersey, Joan McLaughlin, Morristown, New Jersey, Carol Stoudt, Fargo, North Dakota, Bill and Laura Trickey, Kansas City,

Missouri, Tom and Debbie Ritter, Warrentown, Missouri, Debbie Breiden, O'Fallon, Missouri, Senator Gordon and Sharon Smith, Hope Marindin, Chevy Chase, Maryland, Doreen Moreira, Cabin John, Maryland, Sky Westerlund, of Lawrence, Kansas.

Doug and Mary Spangler, Kansas City, Vivian Robinson, Harrisburg, Illinois, Reverend George Coates, Eldorado, Illinois, Ms. Gloria King of Oakland, California, Becky and Mike Dornoff, Williamsburg, Michigan, Steve and Cherie Karban, Rapid River, Michigan, James L. Gritter, Traverse City, Michigan, Ms. Sidney Duncan, Detroit, Michigan, Anne Pierson, Lancaster, Philadelphia, Jane Sarnes, Lexington, Nebraska, Peggy Soule, Rochester, New York, Laurence and Jane Leach, Raleigh County, West Virginia, Judge Gary Johnson, West Virginia, Hays and Gay Town of Baton Rouge, Louisiana, David and Jane Zatz Redmond, Washington, Dennis and Shirley Smithson, Nashville, Tennessee, Anne Desiderio, Albuquerque, New Mexico, Francis Ann Mobley, Daytona Beach, Florida, Kurt and Stacy Stahl, Lake Oswego, Oregon, Sallie Olson, Lake Oswego, Oregon.

Ruth Ann Gaines, Des Moines, Iowa, Larry and Jackie Bebo, Berthoud, Colorado, Gary Cerkenik and Kim Stokes, Britt, Minnesota, Aimee Oullette, Milwaukee, Wisconsin, Bill and Brenda Baker, Redfield, South Dakota, Richard and Karen Butler, Faith, South Dakota, Reverend Ed and Diane Nesseshuf, Vermillion, South Dakota, Debbie Hoffman, Sioux Falls, South Dakota, Melvina and Louie Winters, Pine Ridge, South Dakota, Geraldine Bluebird, Pine Ridge, South Dakota, Scott and Val Parsley, Madison, South Dakota, Mrs. Brenda Edusei, Bedford, New Hampshire, Debra Klopert, St. Louis, Missouri, Jessica Dennis of Rosedale, New York.

Ms. LANDRIEU. Here are some examples from around the country. I will read into the RECORD just a few. First of all, the Congressional Coalition on Adoption has recognized the Freddie Mac Foundation of Virginia, nominated because of countless contributions to the promotion of adoption. In this year alone, Freddie Mac has donated millions of dollars to help fund programs for adoption and foster care. Their commitment and dedication demonstrates their unique understanding that there is more to a home than four walls. We thank the Freddie Mac Foundation for their effort.

I will read a few more brief entries to give an example of some of the people that were honored. My friend, the Senior Senator from Arkansas, submitted a family from Russellville, Arkansas, Lori and Willie Johnson. In an increasingly self-absorbed world, Lori and Willie Johnson remind those around them of the meaning of the word "selfless." They are the proud parents of 17 children, 13 of whom are adopted and have special needs. Because of their love and dedication, these children have a family to call their own.

From Spartanburg, South Carolina, we have selected Fletcher Thompson and Jim Thompson, nominated by our colleague in the House, JAMES DEMINT. Having practiced adoption for over 25 years, they are rightly considered adoption experts. They place over 100 children a year. They practice law in a way that helps build families and

brings hope to children and joy to parents. We thank them for their great work.

I would also like to mention, the Angel from Idaho—since the Senior Senator from that State was on the floor earlier speaking about the important mining issue,—as Co-chair of the Congressional Coalition he nominated Earl and Judy Priest from Caldwell, Idaho. For over 25 years, the Priests have opened their hearts and home to children of all ages and abilities. They are parents of five children, three of whom are adopted. In addition, they have fostered 160 other children.

Hays and Gay Town, from my own home State of Louisiana, founded and personally funded an agency that has placed over 200 children. They have also reached out to help young mothers in crisis.

There are many examples, from California to New York to Louisiana to Michigan. There have been examples of judges, attorneys, parents who have adopted children, advocates in the community, agencies, who are really contributing to making our goal of finding a home for every child in America and the world a reality.

In closing, I would like to remind my colleagues, of several pieces of pending legislation concerning adoption. First, we look forward to passing, with Senator HELMS' and Senator BIDEN's leadership, the Hague Convention on Intercountry Adoption. This treaty will, for the first time, lay out a framework for international adoption. Mr. Chairman, as a lawyer and a former prosecutor, you most certainly know the importance of laying out a legal framework to prevent fraud and abuse, reduce costs and make the process easier for families adopting abroad. Together with Senator ABRAHAM, I have introduced the Adoption Awareness Act to fund a nationwide campaign promoting adoption. Through this campaign, we hope to encourage potential adoptive parents to open their homes to a waiting child.

Finally, we hope to be able to increase the present adoption tax credit from \$5,000 to \$10,000.

As you can see, there is a lot of work we have to do when we come back. I want to take this opportunity, once again, to recognize all of our "Angels in Adoption," and to thank my colleagues for all the good work they have done on this issue. I look forward to working with them when we return to make the reality of a permanent and loving home real for so many children who need it.

Thank you.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska.

#### BYRD-McCONNELL MINING AMENDMENT

Mr. MURKOWSKI. Mr. President, I think we all owe a tremendous debt of gratitude to the senior Senator from West Virginia.

What we have now is a situation concerning mining in the U.S. where a crucial decision is either going to be made to maintain an atmosphere where mining can continue or through the prevailing attitude within the Clinton administration to simply drive this industry offshore.

The Clinton administration, by its actions, evidently opposes the working people of America who are involved in mining.

Those opposing Senator BYRD's proposal basically are destroying the entire coal industry which exists west of the Mississippi—the mine workers whose jobs depend on that industry, the railroad workers, the barge men, and the truck drivers.

I think it is important to note that Senator BYRD's amendment directs the application of the Clean Water Act to be returned to the way it was at the beginning of October of this year.

Senator BYRD's amendment does not change the law. It does not change any practice that has been followed over the years. It is our job to change the law—not the White House and not the courts.

Senator BYRD's amendment gives the Congress and the Federal agencies time to apply existing law without destroying the coal mining industry of this country—time to apply the law, or make such adjustments that are necessary in a way that protects the environment, the coal mining industry, and all those who depend upon that industry for their well-being.

We are looking for a balance. The administration's proposal throws this out of balance.

The amendment goes further. There are two additional issues involved.

One deals with the recent Solicitor's opinion that would throw out 127 years of precedent on the size of mill sites—only 5 acres per claim, if followed through with, this would make mining on public lands absolutely impossible.

I do not know how many Members have an idea about what it takes to make up a mine. The mine needs a mill site, grinding and crushing facilities, shops, processing plants, tailings disposal, headquarters, a water plant, parking lots, and roads. This simply cannot fit on the space provided within the 5-acre mill site per claim. It simply can't be done. This is how they propose to eliminate mining. In my State of Alaska, we would not have a new mine developed, nor could we.

You are depriving us and this country the right to produce minerals from the rich resources we have.

Make no mistake; the Solicitor wrote the opinion to end mining in the West, to drive mining offshore, to drive the jobs offshore, and to drive the dollars offshore.

The provision in this amendment would allow mining operations that have been submitting plans prior to a recent Solicitor's opinion to continue under the law and the precedent that was relied on the developed plan.

The second issue is also a simple provision that would require the administration to follow sound science for a change—not emotion.

The provision would limit the ability of the Secretary of the Interior to propose new hard rock mining regulations for those areas where the National Academy of Science found that there were deficiencies. Why not give science a chance instead of emotion?

Finally, the National Academy of Science found that State and current Federal regulations on hard rock mining sufficiently protected the environment and needed only a few changes to bring it up to current standards.

What is wrong with the objective of the National Academy of Science?

There are two simple provisions: One that provides fundamental fairness by allowing companies that have relied on 127 years of interpretation to continue while the courts sort out whether this new interpretation is legal; and one that requires the administration to follow and comply with sound science.

We are calling for fundamental fairness and sound science. But the White House, in its single-minded determination to end the domestic mining industry, seems to have denied us both.

I certainly appreciate the support of the senior Senator from West Virginia. He has a sympathy and an understanding for the needs of the mining industry.

Unfortunately, we have seen these differences of opinion between the West and the East. But we certainly now have a common interest.

There is going to be little for the domestic mining industry to celebrate this Thanksgiving.

The White House, to serve its environmental constituency and the aspirations of, I guess, the Vice President, has abandoned the call for sound science. They are appealing to emotion.

We need fairness. We need to meet the needs of the men and women who labor in our mines.

This Nation will pay the price as coal mines in West Virginia, mining sites throughout the West, and in my State of Alaska close. Good, honest jobs that built this Nation will be lost. Union and nonunion workers will join the bread line that this administration will leave as its legacy for the mining industry.

I yield the floor.

I thank the President for his patience and perseverance.

The PRESIDING OFFICER. Under the previous order, the Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, my understanding is that Senator KOHL was seeking recognition. I ask unanimous consent that Senator KOHL be allowed to speak for 5 minutes after Senator KERRY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. I thank the Chair.

Mr. President, I come to the floor to speak with some mixed feelings be-

cause I have heard several of my colleagues, and I specifically want to talk about the remarks of Senator BYRD and Senator ROCKEFELLER for whom I have a tremendous amount of respect. I know when they speak about miners, they speak from their hearts, and they speak from their souls.

I haven't looked at the specific wording of the amendment. But I want to raise some questions, if this amendment comes to a vote. I will look at the amendment and then decide.

But I think I heard some of my colleagues trivialize this question. Just looking at it from another very important point of view, I can say that I have spent a considerable amount of time in eastern Kentucky. That is where my wife's family is from. I spent some time years ago with an organization called "Save Our Cumberland Mountains" in east Tennessee.

When my colleagues come to the floor and talk about this as saving some exotic species, they are not talking about what I have seen with strip mining. What I have seen with strip mining in east Tennessee and east Kentucky is a situation where, first of all, the coal mining companies came to the region and took an awful lot of the wealth, and then they left an awful lot of the people poor.

But one of the things people had was their streams, rivers, and their creeks. They had the outdoors, and the land that they loved.

I want to say to my colleagues that when you take the tops off these mountains with the strip mining as opposed to deep mining, and you let the leftover rock and earth get dumped into the adjacent valleys and bury or pollute streams, it raises a big question.

Again, I say, in deference to my colleagues, that I know what they are saying. We will have a chance to analyze this and then decide how to vote.

But I do not believe this is a trivial question at all. I have seen communities ravaged by this strip mining. I have seen courageous people who have lived in the mountains their whole lives speak up. So I want to speak up by raising this question on the floor of the Senate.

I also want to say to my colleague, Senator BYRD—and others—who, as I said, from his heart cares about the miners, that when I hear some of my colleagues talk about the miners, I hope there will be equal concern for the miners in east Kentucky when they don't have the unions. Right now, they can't see 6 inches in front of them because of the coal dust level. I hope we will have the concern for the health and safety of the miners. When I hear speakers on the floor, I hope we will have the concern on raising wages; I hope we will have concern for civilized working conditions; and I hope we will have a concern for the right of miners and other people to be able to organize and bargain collectively.

When I hear about the President's trip to Hazard, KY, where is the con-

cern for poverty? I hope we will also see the same kind of commitment to health care, to education, to affordable child care, to economic development, and all of the rest.

It is a little bit too much to hear some colleagues frame this debate in these terms given this broader context.

It is a difficult question. I said to Senator BYRD earlier I have not looked at the specific amendment yet. I will do that. But I don't want any Senator to come to the floor and act as if there isn't some question—again, the Senator can clear this up for me—as to whether or not, given section 404 of the Clean Water Act, we are or are not creating a loophole. That is a terribly important question for me to resolve before a final vote on the issue.

Mr. BYRD. Will the Senator yield?

Mr. WELLSTONE. I am happy to yield to the Senator.

Mr. BYRD. The distinguished Senator has mentioned my name. The word "waste" has been used. The newspapers have repeatedly used the word "waste," saying this amendment that I am sponsoring is to let coal companies continue to dump their waste into the streams.

As to the use of the term "waste," the Clean Water Act, section 404, governs the disposal of "dredged and fill" materials into waters of the United States. Excess material from coal mines has always been regulated in this fashion as "dredged and fill" material under section 404 of the Clean Water Act.

Judge Hayden in West Virginia, however, determined that excess material from coal mines is "waste" and, as such, could not be disposed of in valley fills.

For 20 years, the stream buffer zone regulation has not been interpreted as preventing the disposal of excess material from coal mines into streams. Rather, Congress relied on the Clean Water Act to govern this activity.

I thank the distinguished Senator for yielding.

I ask unanimous consent Mr. SHELBY be added as a cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The time of the Senator from Minnesota has expired. The Senator from Massachusetts is recognized.

#### GRATITUDE TO JEANETTE BOONE SMITH

Mr. KERRY. Mr. President, I want to share with all of my colleagues, particularly with the citizens of Massachusetts, the deepest sense of appreciation I have for the longest serving member of my staff, someone I have been privileged to have work with me since I entered elective office in 1982. Jeanette Boone Smith is leaving my staff after serving all of that time, since 1982, both in the Lieutenant Governor's Office of Massachusetts and in



the Senate. Throughout those years, Jeanette has symbolized the values and the priorities I have tried to represent in the Senate. I am, indeed, extraordinarily fortunate to have had her friendship and her counsel throughout my public life.

Jeanette embodies the fight for equality and for social justice that defines the entire second half of this century. Her life is filled with stories of personal struggle, public struggle, and of triumph, of sacrifice, and of victory. She was born in Englewood, NJ, and she remained in that State throughout young adulthood. For Jeanette, public service and political action came very early. She became president of Englewood's Fourth Ward Democratic Club, where she worked for local and national Democratic candidates. Her commitment to ensuring equality of opportunity and access to resources led her to fight tirelessly for the integration of the Englewood schools and for public housing. The success of the campaign in which she was involved opened up education and affordable housing to the whole community, and it serves as just one example of the countless times Jeanette sacrificed her time and her energy to help provide a better life to people who had traditionally been denied the full measure of the American dream.

Jeanette interviewed with me in January 1983 when I was putting my staff together for the Lieutenant Governor's Office. From that time on, through those early years, she served as my executive assistant, performing the endless and thankless tasks that all here understand are so vital to our ability to be able to manage our schedules and our State operations. As the years passed, she took on greater responsibilities as the director of constituent services where her warm, generous, open personality, and remarkable compassion for people in need allowed my office to advocate successfully to open and to successfully complete the work on more than 100,000 individual cases throughout Massachusetts.

As my colleagues well know, constituent services are critical in serving the people of our States and they are sometimes the most thankless and the most difficult tasks we confront. Jeanette assembled and managed a team that continues to help people in search of housing, education opportunities, and nutritional assistance. She has also overseen many complex housing partnerships with the U.S. Department of Housing and Urban Development and State agencies, helping to bring quality, affordable housing to thousands of people throughout the State.

Jeanette is leaving to enjoy more time with her husband Perry, her son Tracey, and his sons, and the South End community she loves so dearly. Within the South End, she formed the Four Corners Neighborhood Association, which led to the construction of the Langham Court Apartments. This complex is a wonderful example of

Jeanette's abilities and her commitment to improving her community. It has been recognized with awards for its architecture and innovative program of mixed-income housing. She is also deeply involved in the Roxbury Presbyterian Church where she serves as an elder, a trustee, a member of the choir, and a member of the renovation committee.

These words today—and I know my colleagues will share this sense for any long-term staff person who departs—cannot fully recognize Jeanette's contributions to the people of Massachusetts or the full extent of my personal appreciation for her time with me. Although she departs my staff tomorrow, the principles she has represented in her work will never leave; rather, they will do as Jeanette has done, which is to serve as a moral compass pointed toward a better world where a bright future is open and available to everyone in this country.

I am deeply grateful for her time with me, and I extend to her and Perry my very best wishes as they begin a wonderful new chapter in their lives.

I yield the floor.

Mr. DASCHLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KOHL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wisconsin.

#### THE NORTHEAST DAIRY COMPACT

Mr. KOHL. Mr. President, in the omnibus package that will be brought to the floor sometime this evening, there are two pieces of legislation on dairy that I want to spend a couple of minutes discussing because I think they are unfair and very much not in the spirit of the American economic system.

One is the Northeast Dairy Compact. The Northeast Dairy Compact is an arrangement in which the New England States literally fix the price of milk in those seven States and no one can tamper with that price. It is the only price at which milk can be distributed from the farmer to the processor. In effect, it takes all the competition out of that product in that State, in all the New England States. We have never done that before in this country. It is contrary to everything that is represented by the economic system in the United States.

The reason why we have such a great country in part is because our economic system provides that anybody with a good idea to develop a product or a service has an unfettered opportunity in all 50 States to market that product. That is what has made America great: competition. That is why we have full employment, the best econ-

omy in the world, and an economy that can compete anywhere in the world and succeed. That is because in this country we say: In order to get your share of market, you have to be able to provide the best product at the best price and market it in the best way. There are no restrictions in the 50 States to do that. That has been true since the United States of America was originated.

The northeast dairy cartel is in contrast to that. There is nothing about the cartel that is American in terms of how we do business. There is something else about that. They say, and I have heard this from some of the leaders in the northeast: Can't we just have our cartel? After all, it represents only a fraction of the milk market in the country. Why can't we just have our cartel? But, obviously, if they can have their cartel, then everybody can have a cartel. What stops us from having a Southeast cartel or a Southwest cartel? What stops us from having a Southern cotton cartel? What stops us from having a Midwest corn cartel or a Plains States wheat cartel? If a cartel makes sense in any form, then it makes sense not only in the New England States and not only for milk; it makes sense anywhere, conceivably, and for any product.

Now I ask the question: Does the Senate want to go on record as favoring this type of economic policy? I think we all know the answer is not yes. Nobody has defended this to me, even though it is coming tonight. Nobody has defended it to me. I talked with the leaders in the Senate. I asked them to explain why we should have this kind of legislation in the omnibus bill. I tell you, not a leader, not a single Senator, has explained to me and defended in any way that makes sense the idea of price-fixing cartels. Yet here it comes.

I am told it is coming because promises have been made and arrangements have already occurred, and so on and so forth. On something as important as this, which is price-fixing cartels, it seems to me that saying "promises have been made," and "it has been passed in the House," or "it is too late," or whatever, does not make any sense. May I also say I have been in dialog with the leaders in the Senate for months on this, so this is not a surprise. So here we are with this piece of legislation.

Then we also have this milk pricing policy which, as you all know, arbitrates that the farther you are from Wisconsin in this country, the more you get for your milk if you are a dairy farmer. We all know, again, this was set up 50 or 60 years ago when there was no refrigeration to transport milk and they wanted to encourage the development of the dairy industry. So we provided incentives for dairy farmers at points distant from Wisconsin to develop the dairy industry and to circumvent the need for refrigerated transportation. That is no longer true.

So what we are trying to do is not to eliminate that price differential because that would be too big a step to take at once. We are trying to reduce the price differential—not eliminate it, reduce it. USDA has come up with a program and 97 percent of the farmers in this country have voted for the change in the present milk pricing program. I am not suggesting we need to eliminate the price differential at this time. But let's accept the reduction of the price differential in view of the fact that the present system is archaic and makes no sense.

Again, coming over from the House is legislation that continues to mandate that the old Depression-era pricing system be continued. May I also say the present system, both with respect to the Northeast Dairy Compact and the pricing system, was mandated to conclude on October 1, and we would put in a new system. But before October 1, there was a Federal judge in Vermont who challenged that kind of outcome. So right now it is tied up in the courts and nothing is going to happen. The present system will stay until at least the courts rule on the validity of a new system.

So I suggested, and many have suggested, there be no dairy language in the omnibus; just don't say anything and let's let this thing roll because it is tied up in the courts now anyhow, and we can discuss it next year.

No, promises have been made. People have been won over in one way or another. Other agendas are on the table. So today it comes in an omnibus bill, with the Northeast Dairy Compact renewed. Price fixing cartels, does any Senator want to vote for that? Price fixing cartels, not just for the Northeast, because if you accept it in the Northeast you accept it elsewhere; not just on milk, because a cartel is not uniquely suited to milk. It can be on any other commodity anywhere.

Does the Senate want to go on record as supporting price fixing cartels in this country? Do we want to tear up the American economy in that way? That comes in the omnibus tonight. We are going to vote on that.

We are also going to vote on going back to the old milk marketing price system which, again, is totally outmoded. The USDA has come up with a new system. I am very upset, obviously, and I am obviously going to fight that omnibus bill to its conclusion in any way I can, to filibuster it and to require everything be done to demonstrate to us and to the American people that there is a giant bill coming down the pike which has at least an element in it which is not acceptable, in my judgment, to how America is supposed to function.

We are also considering a continuing resolution that will be brought to the floor momentarily, I understand. Of course, one of the options we have is to vote against a continuing resolution, which would, in effect, shut down the Government at midnight tonight. I

could object to the CR and the Government would shut down. That is something I had considered. But if we do that or if I do that, obviously, it is a huge step, and there are many tens of thousands of people who would be out of a job, with enormous dislocations all across our country. It is a huge step one does not take easily. It is not a step I want to take. It is not a step I am going to take because I do not think it represents responsible action on my part. If some of the other people in this body want to act in a way I consider to be irresponsible and challenge me to be irresponsible—I am not an irresponsible person. Shutting down the Government is a huge, huge decision. One does not take it lightly. I am not going to make that decision over this issue.

But I do want to point out to my colleagues that some strong-arm tactics are at work here. Allowing price fixing cartels is a bad thing for this country. I very much hope we can and will find a way to undo the damage of price fixing cartels in an outmoded milk marketing system in the very near future.

Having said that, I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

#### UNANIMOUS CONSENT AGREEMENT

Mr. LOTT. Mr. President, there are a number of issues we are working on, but we have one unanimous consent request with regard to the loan guarantee for the satellite local situation we have worked out.

I ask unanimous consent that no later than March 30, 2000, if no Senate committee has reported a bill limited to providing loan guarantees to establish local television service to rural areas by satellite and other means, the Republican leader, or his designee, or the Democratic leader, or his designee, be recognized to introduce a bill limited to sections 2002, 2003, 2004, and 2006 of the conference report accompanying H.R. 1554 providing such loan guarantees, and that the Senate immediately begin consideration of the bill with relevant first-degree amendments in order and second-degree amendments that are relevant to the first-degree amendment proposed to be amended. Further, that if legislation is reported that is limited to such loan guarantees, it be considered on or before March 30 and be open to relevant amendments as provided above. Further, that upon disposition of all amendments, the bill be read a third time and passed, with no intervening action.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Reserving the right to object.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, I compliment the majority leader. This is the result of ongoing discussions we have had for some time. I appreciate

very much the involvement and the work done by the distinguished Senator from Montana. This accomplishes much of what we hoped we could do. It is not everything. I am very hopeful we can get this done before April 1, but the majority leader has made as strong a commitment to me personally, and I am sure he is prepared to do it on the record, that he will work with us to accomplish the objectives laid out in this unanimous consent agreement.

I appreciate, as well, the cooperation of the distinguished Banking Committee chairman, and I believe as a result of the effort we have been able to demonstrate in getting to this point, we will achieve our goal. We cannot leave rural America out. We will have an opportunity to provide service to them. This will give us the vehicle to make that happen. So I do not object.

Mr. BAUCUS. Reserving the right to object.

Mr. LOTT. Mr. President, before the Senator reserves the right to object, I want to add my own personal comments rather than just the dry UC that I gave.

I, too, commend and thank the other Senator from Montana, Mr. BURNS, for his efforts in this area and for his tenacity. In fact, this very day, he ruined my lunch talking to me about this issue. I know Senator BAUCUS believes very strongly in it.

It is not just a Montana issue. This is important in South Dakota and this is important in Mississippi. This is important nationwide. If we are going to get this satellite local-to-local service in these smaller markets, we have to have this opportunity, but we want to make sure it is a loan guarantee that will work, that is actually going to do the job, that is not in some way going to improperly benefit any one individual or group of individuals, for that matter, and that it has been carefully thought through.

Again, I am absolutely determined to get this done. I will not only live up to this UC, which I have to, but I will do it with a great deal of vigor and activity.

I thank the Senator from Texas for his willingness to focus on this and get it done by a date certain and make sure he and other committees have added to it to make sure we do it right.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I earlier objected to bringing up the continuing resolution because I felt it made much more sense to include the loan guarantee along with the other provisions in the omnibus bill that will be taken up later providing for local-to-local satellite network service.

I thank the Senator from Mississippi, as well as my colleague from Montana. I have been working with my colleague today to figure out some way to lock in even more having loan guarantees passed by this body and by the other body.

The other body has made a similar commitment in a colloquy about 2

hours ago to make sure this is passed so rural viewers of America have the opportunity to have local satellite service.

I compliment my friend from Montana for working so hard on this. He has worked very hard, as well as others. I am not going to hold up the continuing resolution to shut down the Government. In the whole scheme of things, we have our own priorities and know what the priorities should be. But it is important to get this provision in here because it does make it even more certain we are going to get this loan guarantee provision passed in the next year.

I thank the majority leader. He has been very gracious in working this out, as well as the chairman of the Appropriations Committee, who I know wants to work this out as well, and my good friend from Montana. I also thank the Banking Committee chairman. He has been very helpful.

The PRESIDING OFFICER. There is a unanimous consent request before the Senate. Is there objection?

Mr. BURNS. Reserving the right to object, and I will not object, this is a compromise to facilitate the passage of this omnibus bill. We have worked a long time on this. We are working up to a deadline where we could see some blue screens after December 31. But one cannot ignore the fact that even our satellite viewers should be able to receive local broadcasts or network stations in their local areas. The only way we will ever provide any competition for the cables under the rules they live by, under must carry, and still have a viable satellite service that will compete with cables is through this method.

I appreciate the commitment of the Senator from Texas, the chairman of the Banking Committee. I thank my friend from Montana. He has worked hard on this. I thank the majority leader. Without their commitments, we would be talking a different tune now. I also commend the leadership in the House of Representatives for making the same commitment that this legislation be passed early next year.

I yield the floor.

The PRESIDING OFFICER. A unanimous consent request is before the Senate. Is there objection? Without objection, it is so ordered.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. Will the Senator from Texas yield to the Senator from West Virginia?

Mr. GRAMM. Mr. President, I was going to speak on this subject of the satellite bill, but I yield to the Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that I be recognized as one of the managers of the continuing resolution. I am entitled to that recognition. I ask I be recognized immediately after the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from West Virginia has pro-

pounded a unanimous consent request. Is there objection? Without objection, it is so ordered.

The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I thank my colleagues. This has obviously been a very difficult issue. We passed the satellite bill in the Senate unanimously. I think every Member of the Senate realizes the ability to receive television signals in America is critically important. On Saturday, you want to watch Texas A&M. On Sunday, you want to watch the Dallas Cowboys. And one's life is diminished if you cannot do either one of those things.

The problem we had was we passed a bill in the Senate to set up the legal structure to get that job done. They passed a bill in the House to do the same. Neither bill had any loan guarantee language in it. The conferees realized there was a problem, but in their haste to get it done, it is my opinion that we ended up with language that was as good as anybody could have written during that short period of time.

Under the agreement we have reached, we have an opportunity to have representatives of the television stations, the satellite companies, and potential Internet suppliers come in. We have the ability to look at the technology.

We have the ability to look at loan guarantees we have given in the past. We have the ability to get the input of the Treasury. Hopefully, we will have the ability to put together a bill that will maximize the chances that every American will have access to their local television station.

I want my colleagues to know, as I have said many times as this debate has evolved, I intend, by the 30th of March, to report a bill from the Banking Committee. It is my goal not only to write a bill that will deal with this problem, but I hope we can develop a prototype for the future, where we recognize that there are some social goals that are not necessarily met by market forces, and that the market by itself might not provide this service which we have deemed to be important.

The question then is: What can you do to provide this service at the lowest possible cost and in the most efficient manner? It is my goal to put together a bill that will achieve that goal and perhaps be a prototype for similar problems in the future.

So I thank my colleagues. Probably as much effort has gone into this one little issue as anything throughout this whole process. It is an important issue. It involved an important principle. I think we have reached a good conclusion. I am happy about it. I believe, when we complete it, that every Member of the Senate and every Member of Congress and, hopefully, everybody who has a satellite dish or wants one will be happy about it as well.

I thank my colleagues.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The clerk will report.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. I yield to the majority leader first.

The PRESIDING OFFICER. The Senator from West Virginia is yielding to the majority leader.

Mr. REID. Mr. President, would the majority leader yield?

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. WELLSTONE. Mr. President, I object.

The PRESIDING OFFICER (Mr. BURNS). Objection is heard.

The clerk will continue to call the roll.

The bill clerk continued with the call of the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. FEINGOLD. I object.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded so that the Senator from Minnesota can—

Mr. WELLSTONE. Mr. President, I object until I can read this.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue the call of the roll.

The bill clerk continued with the call of the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. FEINGOLD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The bill clerk continued with the call of the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—H.J. RES. 82, H.J. RES. 83, AND H.R. 3194

Mr. LOTT. I thank my colleagues for not objecting.

Mr. President, I have a unanimous consent request that has been very

carefully worked out, and after it is agreed to, we have three colloquies that Senator DASCHLE, Senator STEVENS, Senator BYRD, and I would like to enter into.

I ask unanimous consent that the Senate now turn to H.J. Res. 82, the continuing resolution, and following the reporting by the clerk, there be two first-degree amendments in order, and no second-degree amendments or motions to commit or recommit be in order. Those amendments are the following:

The Byrd-McConnell amendment regarding mining;

The Helms-Edwards amendment regarding disaster funds.

I further ask consent that following the disposition of the amendments, the joint resolution be read a third time and passed and the motion to reconsider be laid upon the table.

I further ask consent that when the Senate receives H.J. Res. 83, the joint resolution be deemed agreed to and the motion to reconsider be laid upon the table, all without any intervening action or debate.

Finally, I ask consent that when the Senate receives the conference report to accompany H.R. 3194, the reading of the conference report commence immediately following the motion to proceed made by the majority leader, to be followed by a vote on the motion to proceed.

The PRESIDING OFFICER. Is there an objection?

Mr. WELLSTONE. Reserving the right to object, could I ask the majority leader, following the motion to proceed by the majority leader, it says "to be followed by a vote on a motion to proceed." Is this going to be read?

Mr. LOTT. This is after the reading has been completed.

Mr. WELLSTONE. That is our understanding.

Mr. LOTT. That is correct.

Mr. FEINGOLD. Reserving the right to object, I ask the majority leader a question, if I could. We had an understanding prior to removing the quorum call that there is no time limitation.

Mr. LOTT. Correct, there is no time limitation in this agreement.

Mr. FEINGOLD. I thank the majority leader.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

Mr. LOTT. Mr. President, we do have a colloquy we will enter into. I don't know how much debate time will be required since there was no time limitation. It is safe to say there will be a period of time for debate, so if Members want to take this time to get something to eat they will probably have the time to do so. However, I do expect after some reasonable period of time there will be a vote or votes, and, of course, we will proceed to the conference report that has been delivered to the Senate at an appropriate time so it can be read, and for a motion or votes on that.

One important thing I want to emphasize, the Senate can only do what

the Senate can do, and then our action has to go to the House. The House must act. With regard to these continuing resolutions, they have a number of options. I personally am going to vote for the Byrd amendment. I think the Senator is entitled to make his case. I hope the House will accept that. If they don't, it will be back in another venue in another way.

The same thing with regard to the Helms-Edwards disaster funds. An oversight occurred, as I understand it, in the final hours last night with regard to disaster funds for North Carolina. There were about three tranches of money that had been requested for disaster assistance. Two of those were included, which come to a total of around \$800 million. However, \$81 million, an important tranche, was not included. Hopefully, the House will accept this and hopefully the House will see fit to accept them both. I will talk to the Speaker and encourage him to do that.

I want to also emphasize, as has been the case in the past when my State has been involved, when South Dakota or North Dakota has been involved, when any place is involved in a disaster, they should get the assistance they need from a caring American people. That is the way we have been doing it for all the years I have been in the Congress. That is the way it is now and the way it should be.

If for whatever reason in this waning hour of the session this money is not made available, I am committed publicly, along with Senator DASCHLE and the chairman of the committee, that this money will be provided. It will be provided in the first available vehicle after the first of the year, and I presume that will be in a supplemental because there will be a supplemental available, and with the commitment of the chairman and the commitment of the leaders and also the commitment of the American people, those funds will be available. I want to make that part of the RECORD at this point.

I yield the floor for others to respond.

Mr. DASCHLE. Mr. President, let me say I agree wholeheartedly with the comments made by the majority leader. I don't know if there is a State right now that is hurting as badly as North Carolina. Senator EDWARDS has made that point over and over and over again to me, and I know that Senator HELMS has worked with Senator EDWARDS to try to provide the most comprehensive response to the situation as we can.

We have come a long way and made a great deal of progress in the legislation pending, the omnibus bill. As things happen when we work late into the night with a lot of different people working, there is always the possibility something will fall through the cracks. I truly believe that is what happened. I believe it was an honest mistake.

As the majority leader has indicated, whether it is fixed tonight, whether it

is fixed before the end of the session, or whether it is fixed immediately when we come back, I don't know how one can get a stronger commitment than the one given by the majority leader or the one I am prepared to give and the one I know the chairman will be prepared to give to accommodate North Carolina.

I appreciate their willingness to work to do this. This should resolve this matter successfully once and for all, either tonight or at some point in the not too distant future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, as chairman of the Appropriations Committee, I regret this error. It was an error. We have put together several bills in one bill and it has been a rather difficult week in many ways. This error occurred because some of the Members of the House who are involved and should have been involved were not notified of the final decision that was made with regard to a request that came from the Senators of North Carolina.

Senator HELMS called me several times on the matter. I talked on the floor and on the phone with Senator EDWARDS before the final arrangement was reached. Frankly, they sought more money than is even in the amendment that was left out of the bill. However, we said we would have to take up the further money in the supplemental that comes before the Congress in the early part of the next year.

Last evening when this bill was being read out, I did receive a call concerning the fact that some of the Members of the House were disturbed by the changes that were proposed. It was determined then that had not been properly conveyed to the Members, although some of the staff, I believe, were notified and were part of it. It is just one of those things that a staff member's interaction did not take place, and I personally did not go over and tell the House Members—I probably should have—but it was one of the final items on the discussions we had, including those that involved the White House representatives who were before our committee yesterday.

As a consequence, I want to assure the Senators from North Carolina, I do believe that once we have reached a decision such as that, and we felt it had been cleared out, it is our responsibility now to make certain this commitment is made good, and we will do that. This bill will do it if the House will accept it and send it to the President. If that does not happen, we will, without any question, take the matter up in the first supplemental that comes before the Congress next year. We will have the supplemental bill for Kosovo coming. That was another request we received which was not fulfilled in this series of bills that are before the Senate now.

I want to assure Senator EDWARDS and Senator HELMS on this side—and

both have been very diligent in seeking these moneys—that we will put this money in the next bill if this is not accepted by the House. I have every reason to believe it will be accepted by the House. I intend to get on the phone and talk to my friends and make sure they understand. If there was an error, it was one that was caused by the intensity of the work that was going on by the staffs of five different subcommittees trying to put a bill together, along with all the other bills that were being considered, many of which were rejected and are not in this bill that we all considered over this last week.

I do hope the Senators from North Carolina will accept that assurance. I can assure them this is an \$81 million item and it is, in my judgment, small compared to the amount of money that will be in the next supplemental for the people who were affected by Hurricane Floyd anyway, so we will make up for this problem. We will make up the money, and we certainly will see to it that it is there.

I plead with the Members of the House to pass the bill tonight. In any event, we will take care of that error as quickly as we can.

Second, with regard to my good friend from West Virginia and his amendment and that of Senator MCCONNELL and the Western Senators, I think there is a clear, growing understanding of the provisions of this amendment. I have been saying, as Senator BYRD has been saying for some time, this does not change existing law. It is an amendment to try to preserve the status quo until Congress has a chance to review the changes that would take place if decisions of the Solicitor's Office and decisions of one Federal judge were followed, which would affect the mining industry of the whole Nation. I hope the House will certainly see fit to send that measure to the President, so we can see what the White House is going to do with that.

But for now, I hope the Senators involved will let us get on with the major bill, which is going to take some time. I again express my regret to the Senators involved that this incident has taken place, and we will do our best to see it does not happen. But the distinguished minority leader reminded me, on an amendment that we had on a bill earlier this year, a similar thing happened when there were just too many things going into one bill. Our provision was left out, but it got back in the next bill, I assure you.

Mr. President, I do hope the Senators involved will give us the courtesy now of permitting the Appropriations Committee to present, at last, the omnibus appropriations bill that will fulfill our commitment to pass 13 appropriations bills this year.

Mr. LOTT. Mr. President, I know the Senator from North Carolina might want to make a comment or ask a question at this point. I will be glad to yield the floor to him, or yield for him to do that while retaining the floor.

Mr. EDWARDS. I thank the majority leader.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Mr. President, the human suffering and devastation we incurred in North Carolina is absolutely unparalleled. Our people have never suffered and struggled the way they are suffering right now. This storm has completely devastated us. Our farmers are in the worst shape they have ever been in.

I appreciate very much the majority leader's commitment, Senator STEVENS' commitment, and the minority leader's commitment. We have talked throughout this process on a daily basis. We had an agreement, a commitment to two things, basically. One was a loan forgiveness program, which has been talked about, and, second, some language that would help the payment for structural damage on farms in North Carolina.

I appreciate very much the commitment we have received today. I do have to say I am counting on my colleagues' commitments—the majority leader's commitment, Senator STEVENS' commitment, Senator DASCHLE's commitment—to do everything in their power to get this thing passed in this Congress; that it will be included in the CR we are discussing right now and that, when it goes to the House side, the majority leader will speak to the Speaker. We will do everything in our power, Senator HELMS and myself, to make sure that happens. But it is critical to Senator HELMS and me that we not need to rely on the commitment to do something after the first of the year, that we get this done tonight or tomorrow.

With that, I thank the majority leader.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. I will say on behalf of Senator HELMS, he has been following this very closely. I have spoken to him, and Senator EDWARDS has been in constant conversation with him, as has Senator STEVENS. He understands what we are doing here, and we have made a commitment to him, which we certainly are going to honor, and to Senator EDWARDS, that we will pursue this aggressively with the other Chamber. This money is going to be available, hopefully in this CR; if not, the first available vehicle next year.

#### DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2000—CONFERENCE REPORT

Mr. LOTT. Mr. President, I ask that the Chair lay before the Senate the conference report to accompany the DC appropriations bill, H.R. 3194, and the conference report be considered as having been read.

The PRESIDING OFFICER. Is there objection?

Mr. FEINGOLD. I ask for the reading.

Mr. LOTT. Is there objection?

Mr. FEINGOLD. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. I ask that the Senate now proceed to the conference report, and before the clerk begins reading, I announce to my colleagues, Senator KOHL has indicated to me, following the conclusion of the reading, he will insist on the conduct of a rollcall vote on the motion to proceed to the conference report.

Therefore, a procedural rollcall vote will occur at approximately 9:30 this evening.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The clerk will read the conference report.

The legislative clerk read the conference report.

(The conference report is printed in the House proceedings of the RECORD of November 17, 1999.)

Mr. MACK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. ENZI). Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. MACK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I believe the regular order is for the vote to begin.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Missouri (Mr. ASHCROFT), the Senator from Missouri (Mr. BOND), the Senator from Kentucky (Mr. BUNNING), the Senator from Tennessee (Mr. FRIST), the Senator from Washington (Mr. GORTON), the Senator from Texas (Mrs. HUTCHISON), the Senator from Arizona (Mr. MCCAIN), and the Senator from Oregon (Mr. SMITH) are necessarily absent.

Mr. REID. I announce that the Senator from California (Mrs. BOXER), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from New York (Mr. MOYNIHAN), and the Senator from New York (Mr. SCHUMER) are necessarily absent.

The result was announced—yeas 80, nays 8, as follows:

[Rollcall Vote No. 369 Leg.]

#### YEAS—80

Abraham	Biden	Campbell
Akaka	Bingaman	Chafee, L.
Allard	Breaux	Cleland
Baucus	Brownback	Cochran
Bayh	Bryan	Collins
Bennett	Burns	Coverdell

Craig	Inouye	Reid
Crapo	Jeffords	Robb
Daschle	Johnson	Roberts
DeWine	Kennedy	Rockefeller
Dodd	Kerry	Roth
Domenici	Kyl	Santorum
Durbin	Landrieu	Sarbanes
Edwards	Leahy	Sessions
Enzi	Levin	Shelby
Feinstein	Lieberman	Smith (NH)
Graham	Lincoln	Snowe
Gramm	Lott	Specter
Grassley	Lugar	Stevens
Gregg	Mack	Thomas
Hagel	McConnell	Thompson
Harkin	Mikulski	Thurmond
Hatch	Murkowski	Torricelli
Helms	Murray	Voinovich
Hollings	Nickles	Warner
Hutchinson	Reed	Wyden
Inhofe		

## NAYS—8

Byrd	Feingold	Kohl
Conrad	Fitzgerald	Wellstone
Dorgan	Grams	

## NOT VOTING—12

Ashcroft	Frist	McCain
Bond	Gorton	Moynihan
Boxer	Hutchison	Schumer
Bunning	Lautenberg	Smith (OR)

The motion was agreed to.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

## CLOTURE MOTION

Mr. LOTT. Mr. President, I send a cloture motion to the desk to the pending conference report.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

## CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the conference report to accompany the District of Columbia appropriations bill:

TRENT LOTT, TED STEVENS, LARRY E. CRAIG, JUDD GREGG, TIM HUTCHINSON, DON NICKLES, MIKE CRAPO, CONNIE MACK, SLADE GORTON, BEN NIGHTHORSE CAMPBELL, ARLEN SPECTER, PAT ROBERTS, CHUCK HAGEL, RICHARD SHELBY, THAD COCHRAN, and JOHN WARNER.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I ask unanimous consent this cloture vote occur at 3 p.m. on Friday, November 19, and the mandatory quorum call be waived.

Mr. FEINGOLD. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Unfortunately, our colleague from Wisconsin has chosen to object to what I think is a reasonable request, which would give us an opportunity to have a full debate and then get to a final vote on this issue. It would be a few hours to do that. However, that is his right.

Therefore, Senators should expect this cloture vote to occur at 1:01 a.m. Saturday, November 20; 1:01 a.m., Saturday, November 20. I just want to make sure everybody understands. That is early morning.

At that time, when we invoke cloture, then we can, in a relatively short period of time, go to a final vote.

## HOUSE CONCURRENT RESOLUTION 235—ADJOURNMENT OF THE TWO HOUSES OF CONGRESS

Mr. LOTT. I now ask the Senate turn to the adjournment resolution, H. Con. Res. 235, the resolution be agreed to, the motion to reconsider be laid upon the table, all without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 235), was agreed to, as follows:

## H. CON. RES. 235

*Resolved by the House of Representatives (the Senate concurring),* That when the House adjourns on any legislative day from Thursday, November 18, 1999, through Monday, November 22, 1999, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it shall stand adjourned until noon on Thursday, December 2, 1999 (unless it sooner has received a message from the Senate transmitting its concurrence in the conference report to accompany H.R. 3194, in which case the House shall stand adjourned sine die), or until noon on the second day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution; and that when the Senate adjourns on any day from Thursday, November 18, 1999, through Thursday, December 2, 1999, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it shall stand adjourned sine die, or until noon on the second day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution.

SEC. 2. When the House convenes for the second session of the One Hundred Sixth Congress, it shall conduct no organizational or legislative business on that day and, when the House adjourns on that day, it shall stand adjourned until noon on January 27, 2000, or until noon on the second day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution.

SEC. 3. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

SEC. 4. The Congress declares that clause 2(h) of rule II of the Rules of the House of Representatives and the order of the Senate of January 6, 1999, authorize for the duration of the One Hundred Sixth Congress the Clerk of the House of Representatives and the Secretary of the Senate, respectively, to receive messages from the President during periods when the House and Senate are not in session, and thereby preserve until adjournment sine die of the final regular session of the One Hundred Sixth Congress the constitutional prerogative of the House and Senate to reconsider vetoed measures in light of the objections of the President, since the availability of the Clerk and the Secretary during any earlier adjournment of either House during the current Congress does not prevent the return by the President of any bill presented to him for approval.

SEC. 5. The Clerk of the House of Representatives shall inform the President of the United States of the adoption of this concurrent resolution.

Passed the House of Representatives November 18, 1999.

## FURTHER CONTINUING APPROPRIATIONS, 2000

Mr. LOTT. Mr. President, I now ask unanimous consent the Senate resume

the consideration of H.J. Res. 82 and there be 5 minutes of debate on each of the two amendments in order to the resolution.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LOTT. Therefore, at least one further vote will occur yet tonight. In addition, the Senate will convene tomorrow at 10 a.m., and hopefully process some legislative items that have been cleared and that would be considered by the House.

The Senate could also consider the Work Incentives conference report. Therefore votes can be expected to occur during the session of the Senate on Friday. We will stay in close touch with both sides of the aisle to see when the best time might be for that. We will try to accommodate as many Senators as possible and stack them if we need to.

The PRESIDING OFFICER. The clerk will report the joint resolution.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 82) making further continuing appropriations for the fiscal year 2000 and for other purposes.

The Senate proceeded to consider the resolution.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senate will please come to order.

## AMENDMENT NO. 2780

Mr. BYRD. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, Mr. MCCONNELL, Mr. ROCKEFELLER, Mr. BUNNING, Mr. REID, Mr. CRAIG, Mr. BRYAN, Mr. HATCH, Mr. BENNETT, Mr. MURKOWSKI, Mr. CRAPO, Mr. ENZI, Mr. BURNS, Mr. KYL, Mr. BREAU, Mr. SHELBY, Mr. GRAMM, and Mr. GRAMS, proposes an amendment numbered 2780.

Mr. BYRD. I ask unanimous consent the reading of the amendment be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

## SEC. . DISPOSAL OF EXCESS SPOIL AND COAL MINE WASTE.

(a) IN GENERAL.—Notwithstanding any other provision of law (including any regulation or court ruling), hereafter—

(1) in rendering permit decisions for discharges of excess spoil and coal mine waste into waters of the United States from surface coal mining and reclamation operations, the permitting authority shall apply section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) and the section 404(b)(1) guidelines pursuant to section 404(b)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1344(b)(1)) and implementing regulations set forth in part 230 of title 40, Code of Federal Regulations (as in effect on October 19, 1999);

(2) the permitted disposal of such spoil or waste meeting the requirements of the section 404(b)(1) guidelines referred to in paragraph (1) shall be deemed to satisfy the criteria for granting a variance under regulations set forth in sections 816.57 and 817.57 of

title 30, Code of Federal Regulations, and applicable State regulations; and

(3) Federal and State water quality standards shall not apply to the portions of waters filled by discharges permitted pursuant to the procedures set forth in paragraphs (1) and (2); all applicable Federal and State water quality standards shall apply to all portions of waters other than those filled pursuant to the permitting procedures set forth in paragraphs (1) and (2).

(b) DURATION OF EFFECTIVENESS.—The permitting procedures specified in subsection (a) shall remain in effect until the later of—

(1) the date that is 2 years after the date of enactment of this Act; or

(2) the effective date of regulations promulgated to implement recommendations made as a result of the environmental impact statement relating to the permitting process, the preparation of which was announced at 64 Fed. Reg. 5800 (February 5, 1999).

(c) EFFECT OF SECTION.—Nothing in this section modifies, supersedes, undermines, displaces, or amends any requirement of, or regulation issued under, the Federal Water Pollution Control Act (commonly known as the "Clean Water Act") (33 U.S.C. 1251 et seq.) or the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.), as applied by the responsible Federal agencies on October 19, 1999.

(d) PERIOD OF EFFECTIVENESS.—Notwithstanding any other provision of law repealing or terminating the effectiveness of this Act, this section shall remain in effect until the date of termination of the effectiveness of the permitting procedures in accordance with subsection (b).

#### SEC. . HARDROCK MINING.

(a) IN GENERAL.—For the purposes of section 1000(a)(3) of division B of the Act enacting H.R. 3194 of the 106th Congress, in lieu of section 357 of title III of H.R. 3423 of the 106th Congress, as introduced on November 17, 1999, regarding the issuance of regulations on hardrock mining, the following shall apply:

(1) HARDROCK MINING.—None of the funds made available under this Act or any other Act shall be used by the Secretary of the Interior to promulgate final regulations to revise subpart 3809 of 43, Code of Federal Regulations, except that the Secretary, after the end of the public comment period required by section 3002 of the 1999 Emergency Supplemental Appropriations Act (Public Law 106-31; 113 Stat. 89), may issue final regulations to amend that subpart if the regulations are consistent with—

(A) the regulatory gap findings identified in the report of the National Research Council entitled "Hardrock Mining on Federal Lands"; and

(B) statutory authorities in effect as of the date of enactment of this Act.

(2) LIMITATION.—Nothing in this section expands the statutory authority of the Secretary of the Interior in effect as of the date of enactment of this Act.

(b) PERIOD OF EFFECTIVENESS.—This section—

(1) takes effect 1 day after the date of enactment of the Act enacting H.R. 3194 referred to in subsection (a); and

(2) notwithstanding any other provision of law repealing or terminating the effectiveness of this Act, shall remain in effect unless repealed by Act of Congress that makes specific reference to this section.

#### SEC. . MILLSITES.

(a) IN GENERAL.—For the purposes of section 1000(a)(3) of division B of the Act enacting H.R. 3194 of the 106th Congress, in lieu of section 337 of title III of H.R. 3423 of the 106th Congress, as introduced on November

17, 1999, regarding the millsites opinion, the following shall apply:

(1) MILLSITES OPINION.—No funds shall be expended by the Secretary of the Interior or the Secretary of Agriculture, for fiscal years 2000 and 2001, to limit the number or acreage of millsites based on the ratio between the number or acreage of millsites and the number or acreage of associated lode or placer claims with respect to—

(A) any patent application excluded from the operation of section 112 of the Department of the Interior and Related Agencies Appropriations Act, 1995, by section 113 of that Act (108 Stat. 2519);

(B) any operation or property for which a plan of operations has been approved before the date of enactment of this Act; or

(C) any operation or property for which a plan of operations, or amendment or modification to an existing plan, was submitted to the Bureau of Land Management or the Forest Service before May 21, 1999.

(2) NO RATIFICATION.—Nothing in this Act or the 1999 Emergency Supplemental Appropriations Act (Public Law 106-31) shall be construed as an explicit or tacit adoption, ratification, endorsement, approval, rejection, or disapproval of the opinion dated November 7, 1997, by the Solicitor of the Department of the Interior concerning millsites.

(b) PERIOD OF EFFECTIVENESS.—This section—

(1) takes effect 1 day after the date of enactment of the Act enacting H.R. 3194 referred to in subsection (a); and

(2) notwithstanding any other provision of law repealing or terminating the effectiveness of this Act, shall remain in effect unless repealed by Act of Congress that makes specific reference to this section.

The PRESIDING OFFICER. Under the previous agreement, there is 5 minutes equally divided for debate at this time.

Mr. WELLSTONE. Mr. President, can we have order in the Chamber, please?

The PRESIDING OFFICER. The Senator is correct. Will the Senate please come to order?

The Senator from West Virginia.

Mr. BYRD. I thank the Chair.

Mr. President, I had earlier planned to speak at least 2 weeks on this amendment. We are getting a bargain. I am only going to speak 3 minutes, not 2 weeks. Let me just say this: I made my speech earlier today. I will not make it again now. I urge my friends to vote for this amendment. When God drove Adam and Eve from the Garden of Eden, he pronounced an edict: "In the sweat of thy brow shalt thou eat bread."

The coal miners of West Virginia and Kentucky and other States of this country earn their bread in the sweat of their brow. But not only the coal miners have been affected by this court's jurisdiction, by its ruling; the truckers, the railway workers, the men and women who operate the barges that go up and down the rivers, the suppliers—these people, their families are affected by this judge's order.

This amendment does not seek to undercut, undermine, alter, modify, amend, or repeal the Clean Water Act or the Surface Mining Control and Reclamation Act. I say that on my honor. The other cosponsors and I do not seek

to do that. We only seek to put the situation back to where it was prior to the U.S. District judge's order, the status quo ante, which at that time made West Virginia the most strictly controlled State in the Union environmentally as far as mountaintop mining was concerned, mountaintop mining—the strictest in the Union.

We want to go back to that, and the regulations that controlled then were agreed upon and devised by the administration's own regulatory agencies—the Army Corps of Engineers, the EPA, the Interior Department through its Office of Surface Mining.

This amendment states, so there can be no doubt about it:

Nothing in this section modifies, supersedes, undermines, displaces, or amends any requirement of, or regulation issued under, the Federal Water Pollution Control Act (commonly known as the "Clean Water Act") . . . or the Surface Mining Control and Reclamation Act of 1977 . . . as applied by the responsible Federal agencies—

Which are the agencies of this administration—  
on October 19, 1999.

So there it is. The amendment has been misrepresented. There has been much misinformation about this amendment.

Mr. President, I close by thanking those who have cosponsored this amendment with me. Their names are on the amendment.

How much time have I used?

The PRESIDING OFFICER. The 2½ minutes.

Mr. BYRD. I yield myself another minute and a half.

The PRESIDING OFFICER. The time was 5 minutes equally divided, which is 2½ minutes.

Mr. BYRD. I ask unanimous consent that I may speak another minute and a half.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank the Chair.

The amendment is proposed by Mr. BYRD, for himself, Mr. MCCONNELL, Mr. ROCKEFELLER, Mr. BUNNING, Mr. REID, Mr. CRAIG, Mr. BRYAN, Mr. HATCH, Mr. BENNETT, Mr. MURKOWSKI, Mr. CRAPO, Mr. ENZI, Mr. BURNS, and Mr. KYL—I thank all those Senators who supported this amendment and others who will vote for it. Particularly I want to recognize the efforts of my chief cosponsor, the distinguished senior Senator from Kentucky, whose early and strong support was given to this amendment, for which I am extremely grateful. I thank both leaders for making this vote possible. I could speak longer, but I have said enough already.

I urge all Senators to vote for this amendment.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I thank my colleague from West Virginia. I appreciate his leadership not only on behalf of the coal miners of Kentucky but miners all across America.



The President of the United States came to Hazard, KY, this summer. He bit his lip; he felt our pain. He said he wanted to help us. We said: We need jobs. And when the opportunity came to support the Byrd amendment which would at least keep the jobs we have now, the President would not support him.

This administration is trying to destroy the mining industry in America, make no mistake about it. That is what this amendment is about.

I thank the Senator from West Virginia for his leadership, and we hope very much our colleagues will be able to support us.

The PRESIDING OFFICER. The Chair recognizes the Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

Mr. President, I hope other Senators will want to speak in opposition. I think there should be opposition to this amendment. I have tremendous respect for my colleagues who have offered this amendment. I will say a couple things especially in response to the Senator from Kentucky.

I am a Senator who cares a great deal about workers and about mine workers. I am a Senator who appreciates the sentiment behind this amendment. But the question is, What happens when the strip mining takes place, and what are the consequences for the people who live in these communities?

I can speak certainly from what I have seen in eastern Kentucky, and it is pretty awful when that leftover rock and earth gets dumped into the streams. Many of the people have the wealth taken away from them, but they still have the land, they still have the streams, they still have the water, and now we see that kind of devastation.

My concern is this amendment will create a loophole to the Clean Water Act. I know my colleague from West Virginia believes otherwise, but it is a very real concern. I point out to colleagues that it is my understanding the Federal district judge put a stay on his own decision while it was being appealed to the court of appeals. So it is not operative right now.

I do not know why we are taking this action tonight. It is a big mistake from an environmental point of view, and I do not accept, I say to my colleague from Kentucky, the tradeoff that he presents as to workers versus some protection for the environment and some concern about the strip mining.

I did not want to be the person to speak in opposition, but I do believe there is another perspective. I will vote no.

I yield the floor.

Mr. BYRD. Mr. President, I ask unanimous consent to speak for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I know what is in this amendment. I prepared this amendment. I have been explaining it now for weeks. And, upon my

honor, there is nothing in it that undermines or undercuts the Clean Water Act or the Surface Mining Control and Reclamation Act, both of which I supported, one of which I called up as majority leader in this Senate in 1977.

I know what I am talking about. I have lived under a coal miner's roof, ate from a coal miner's table, slept in a coal miner's bed. I have known the joys and the sorrows of coal miners. I married a coal miner's daughter. I know what I am talking about. I haven't just made a trip into West Virginia and come back to Washington to issue a news report on the State and its people. I have lived there for many years.

I will be 82 years old the day after tomorrow. I know what those miners need. I am not misleading anybody. Let me say this to the Senator: That stay he refers to that the judge put on has no legal basis. The judge stated that it has no legal basis. He put it on, and he can lift it the day this Congress winds up its work.

I hope Senators will vote for this amendment. There were 125,000 coal miners when I went to the House of Representatives; 125,000 in West Virginia. Today there are 20,000 or less. My dad was a coal miner. My wife's sister's husband died with black lung. My wife's sister's husband's father died under a slate fall. I know the joys and the sorrows of the mining people. I have helped to carry those miners, the heavy coffins, on the steep hillsides of West Virginia. I have not just gone into those hills poking around, and then coming back, and issuing news reports about their poverty. I know what they need, because I am one of them.

Those 20,000 coal miners earn their bread in the sweat of their brow. Let's give them a vote. If the Senator from Minnesota had people who were faced with the loss of their jobs, this Senator would vote with the Senator from Minnesota and not say a word about it. I resent anything such as has been said by the Senator about my State and its people.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that I have 1 minute to respond.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I appreciate the words of my colleague. It is an honest difference of interpretation of the amendment.

The only thing I want to respond to, I do not want to be personal, but I would like to say to my colleague, I do not pretend to know West Virginia like you know West Virginia and Senator ROCKEFELLER does; that is not the position I am taking, but as to the bopping in and bopping out, I will say that I want my colleague to know I have spent quite a bit of time in eastern Kentucky. That is where my wife's family is from. Her grandparents were all coal miners. I have spent time in east Tennessee as well. I spent a lot of

time with people. I have seen what the strip mining has done to those communities. I am just expressing my honest viewpoint. That is all I am trying to do, I say to the Senator.

I yield the floor.

Mr. ROBB. Mr. President, I join many others in this body in expressing my support for miners and for mining communities. In Virginia's Southwest region, mining creates the jobs that provide enough income to lift the next generation, that put the sons and daughters of miners through college, and that gives the region options other than coal.

Virginia miners have expressed deep concerns that the broad application of Judge Haden's ruling would result in the devastation of the mining industry in the Southern Appalachian coal fields. The Judge's decision is not limited to the mountain top mining that was the subject of the original suit. It would apply to the use of valley fills from other forms of mining, including underground mining. The practical effect of this ruling is a virtual moratorium on mining in mountainous regions. We need to protect the environment and we also need to protect the livelihood of those hardworking families. I had hoped we could reach a compromise on this issue that would effectively allow us to do both.

I have reviewed the Memorandum of Understanding between the federal and state agencies that could be used to mitigate the consequences of valley fills if they were allowed to continue. It was signed by the EPA, Department of the Interior, Army Corps of Engineers, and the State of West Virginia. All the signatories are sworn to protect the nation's water. I am convinced that if the MOU stood, the agencies involved would work diligently to mitigate any negative consequences from mining in the West Virginia coal fields. Nevertheless, it is imperative that we continue to be vigilant on the effects of mining on the environment, and work to minimize its effects.

I have also reviewed Judge Haden's ruling and see in that ruling the underlying conflict between what the regulations intend to do, and the actual costs of applying those regulations. It demonstrates once again how essential acting on regulatory reform is going to be in this Congress. It is imperative that we set in place a method of analyzing the true cost of the regulations, before they are put into place. I am certain the agencies involved want to do the right thing, by both miners and the environment. The rules as I read them make that virtually impossible. I am hopeful that this conflict can be resolved as quickly as possible. In the meantime, I intend to support the miners of Southwest Virginia.

I must however, voice my strong opposition to the language on hard rock mining that has been added at the last minute to this amendment. My vote on this amendment stems only from my concern for the immediate effect Judge

Haden's ruling would have on the economy of Southwest Virginia. I have opposed and will continue to oppose efforts to delay the review and revision of the nation's hard rock mining standards. My vote in no way supports the inclusion of hard rock provisions in this package.

I ask unanimous consent that this statement be placed in the RECORD before the vote on Amendment No. 2780.

Mr. BUNNING. Mr. President, I urge my colleagues to support the Byrd amendment.

We are scrambling around right here in the U.S. Senate to pass a stopgap spending bill to keep from shutting down a major portion of the Federal Government.

So, it is very fitting that we add an amendment to that stopgap spending bill that would help us keep a Federal judge from shutting down the coal mining industry in West Virginia and possibly other States like Kentucky as well.

This is a matter of survival for many of our coal mines. It is essential that we act now to prevent unnecessary damage to the industry—to prevent unnecessary unemployment—and to prevent unnecessary economic devastation in areas which have already been bypassed by the economic boom times that have blessed much of the Nation.

A Federal district court judge in West Virginia ruled on October 21 that a well-balanced working agreement between the U.S. Environmental Protection Agency, the U.S. Department of the Interior, the U.S. Army Corps of Engineers and the West Virginia Division of Environmental Protection violated the Clean Water Act.

That arbitrary ruling which basically overrules three Federal agencies' interpretation of the law is going to jeopardize the coal industry immediately in West Virginia and potentially in other States like my own State of Kentucky as well.

We need to pass the Byrd Amendment to stay this ruling until we have had time to get the results of a pending environmental impact statement.

It is a matter of simple fairness. The jobs and lives of many of our constituents are at stake.

I urge my colleagues to support the Byrd amendment.

Mr. LEVIN. Mr. President, I voted in support of the Byrd amendment to provide for a 2-year moratorium during which mountain top mining activities may continue under a memorandum of agreement with the Environmental Protection Agency, the Department of Interior and the Army Corps of Engineers. The EPA which is in charge of implementation of the Clean Water Act was a party to the agreement which would continue to force during the 2-year moratorium. An environmental impact study will go forward during the moratorium and regulations pursuant to the environmental impact statement can be promulgated. My vote on this amendment does not commit me

to support the continuation of any such moratorium beyond this 2-year period during which the courts and the regulatory agencies will more fully evaluate the impacts on both the environment and the affected coal miners and their communities. The fact that the court has stayed the effect of its own opinion is further evidence that this legislative moratorium is both warranted and will do no damage to the underlying act.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, has all time expired?

The PRESIDING OFFICER. All time has expired.

Mr. LOTT. Mr. President, I ask unanimous consent that I be allowed to offer an amendment at this time on behalf of Senators HELMS and EDWARDS of North Carolina with regard to funds for their disaster. And I ask unanimous consent that that vote occur in a stacked sequence, after it is debated, after the vote on the amendment by Senator BYRD and Senator MCCONNELL, and that the first vote be just 10 minutes, and then the second vote would be 10 minutes also.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 2781

Mr. LOTT. Mr. President, I send to the desk then the amendment on behalf of Senators HELMS and EDWARDS.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mr. HELMS and Mr. EDWARDS, proposes an amendment numbered 2781.

The amendment is as follows:

At the appropriate place insert:

COMMODITY CREDIT CORPORATION PRODUCER-OWNED MARKETING ASSOCIATIONS FORGIVENESS

SEC. 1. The Secretary of Agriculture shall reduce the amount of any principal due on a loan made to marketing association incorporated in the State of North Carolina for the 1999 crop of an agricultural commodity by at least 75 percent if the marketing association suffered losses of the agricultural commodity in a county with respect to which—(1) a natural disaster was declared by the Secretary for losses due to Hurricane Dennis, Floyd, or Irene; or (2) a major disaster or emergency was declared by the President for losses due to Hurricane Dennis, Floyd, or Irene under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

If the Secretary assigns a grade quality for the 1999 crop of an agricultural commodity marketed by an association described in subsection (a) that is below the base quality of the agricultural commodity, the Secretary shall compensate the association for losses incurred by the association as a result of the reduction in grade quality.

Up to \$81,000,000 of the resources of the Commodity Credit Corporation may be used for the cost of this provision: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) and Section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

SEC. 2. In administering \$50,000,000 in emergency supplemental funding for the Emer-

gency Conservation Program, the Secretary shall give priority to the repair of structures essential to the operation of the farm.

Mr. LOTT. Mr. President, I am honored they would allow me to do this on their behalf because I believe they were not treated properly in the wee hours of the morning with regard to an amount of money for disaster assistance for North Carolina. We are determined to assist them in getting that. We hope this will be accepted by the House in this form. But if not in this form, we will be back to carry out our commitment to the people in North Carolina and as a symbol to people all across America that, when it comes to disasters, there are no party lines and there is no division between the Capitol; we will do what is necessary to help people when they are desperate and need help.

So I urge my colleagues to vote for this amendment.

Mr. BYRD. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LOTT. Mr. President, I ask for the yeas and nays on the second amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

#### VOTE ON AMENDMENT NO. 2780

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2780. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Missouri (Mr. ASHCROFT), the Senator from Missouri (Mr. BOND), the Senator from Kentucky (Mr. BUNNING), the Senator from Tennessee (Mr. FRIST), the Senator from Washington (Mr. GORTON), the Senator from Texas (Mrs. HUTCHISON), the Senator from Arizona (Mr. MCCAIN), and the Senator from Oregon (Mr. SMITH), are necessarily absent.

Mr. REID. I announce that the Senator from California (Mrs. BOXER), the Senator from New Jersey (Mr. LAUTENBERG), and the Senator from New York (Mr. MOYNIHAN), are necessarily absent.

The result was announced—yeas 56, nays 33, as follows:

#### [Rollcall Vote No. 370 Leg.]

#### YEAS—56

Abraham	DeWine	Inhofe
Allard	Dodd	Inouye
Bayh	Domenici	Kohl
Bennett	Dorgan	Kyl
Breaux	Edwards	Levin
Bryan	Enzi	Lott
Burns	Gramm	Mack
Byrd	Grams	McConnell
Campbell	Grassley	Mikulski
Cleland	Gregg	Murkowski
Cochran	Hagel	Nickles
Conrad	Hatch	Reid
Coverdell	Helms	Robb
Craig	Hollings	Roberts
Crapo	Hutchinson	Rockefeller

Santorum  
Sessions  
Shelby  
Smith (NH)

Specter  
Stevens  
Thomas  
Thompson

Thurmond  
Voinovich  
Warner

Roberts  
Rockefeller  
Roth  
Santorum  
Sarbanes  
Schumer  
Sessions

Shelby  
Smith (NH)  
Snowe  
Specter  
Stevens  
Thomas  
Thompson

Thurmond  
Torricelli  
Warner  
Wellstone  
Wyden

## NAYS—33

Akaka  
Baucus  
Biden  
Bingaman  
Brownback  
Chafee, L.  
Collins  
Daschle  
Durbin  
Feingold  
Feinstein

Fitzgerald  
Graham  
Harkin  
Jeffords  
Johnson  
Kennedy  
Kerrey  
Kerry  
Landrieu  
Leahy  
Lieberman

Lincoln  
Lugar  
Murray  
Reed  
Roth  
Sarbanes  
Schumer  
Snowe  
Torricelli  
Wellstone  
Wyden

## NAYS—1

Voinovich

## NOT VOTING—11

Ashcroft  
Bond  
Boxer  
Bunning

Frist  
Gorton  
Hutchison  
Lautenberg

McCain  
Moynihan  
Smith (OR)

## NOT VOTING—11

Ashcroft  
Bond  
Boxer  
Bunning

Frist  
Gorton  
Hutchison  
Lautenberg

McCain  
Moynihan  
Smith (OR)

The amendment (No. 2780) was agreed to.

Mr. COVERDELL. Mr. President, I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2781. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Missouri: (Mr. ASHCROFT), the Senator from Missouri (Mr. BOND), the Senator from Kentucky (Mr. BUNNING), the Senator from Tennessee (Mr. FRIST), the Senator from Washington (Mr. GORTON), the Senator from Texas (Mrs. HUTCHISON), the Senator from Arizona (Mr. MCCAIN), and the Senator from Oregon (Mr. SMITH) are necessarily absent.

I further announce that, if present and voting, the Senator from Kentucky (Mr. BUNNING) would vote "yea."

Mr. REID. I announce that the Senator from California (Mrs. BOXER), the Senator from New Jersey (Mr. LAUTENBERG), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 88, nays 1, as follows:

[Rollcall Vote No. 371 Leg.]

## YEAS—88

Abraham  
Akaka  
Allard  
Baucus  
Bayh  
Bennett  
Biden  
Bingaman  
Breaux  
Brownback  
Bryan  
Burns  
Byrd  
Campbell  
Chafee, L.  
Cleland  
Cochran  
Collins  
Conrad  
Coverdell  
Craig  
Crapo  
Daschle

DeWine  
Dodd  
Domenici  
Dorgan  
Durbin  
Edwards  
Enzi  
Feingold  
Feinstein  
Fitzgerald  
Graham  
Gramm  
Graggs  
Grassley  
Gregg  
Hagel  
Harkin  
Hatch  
Helms  
Hollings  
Hutchinson  
Inhofe  
Inouye

Jeffords  
Johnson  
Kennedy  
Kerrey  
Kerry  
Kohl  
Kyl  
Landrieu  
Leahy  
Levin  
Lieberman  
Lincoln  
Lott  
Lugar  
Mack  
McConnell  
Mikulski  
Murray  
Nickles  
Reed  
Reid  
Robb

mercial airlines and air traffic control system.

Close international cooperation with Russia occurred on the Shuttle-Mir docking missions and on the ISS program. The United States also entered into new forms of cooperation with its partners in Europe, South America, and Asia.

Thus, FY 1998 was a very successful one for U.S. aeronautics and space programs. Efforts in these areas have contributed significantly to the Nation's scientific and technical knowledge, international cooperation, a healthier environment, and a more competitive economy.

WILLIAM J. CLINTON.

THE WHITE HOUSE, November 18, 1999.

## MESSAGE FROM THE HOUSE

At 2:47 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 82. Joint resolution making further continuing appropriations for the fiscal year 2000, and for other purposes.

At 3:40 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1167. An act to amend the Indian Self-Determination and Education Assistance Act to provide for further self-governance by Indian tribes, and for other purposes.

H.R. 1953. An act to authorize leases for terms not to exceed 99 years on land held in trust for the Torres Martinez Desert Cahuilla Indians and the Guidiville Band of Pomo Indians of the Guidiville Indian Rancheria.

H.R. 3051. An act to direct the Secretary of the Interior, the Bureau of Reclamation, to conduct a feasibility study on the Jicarilla Apache Reservation in the State of New Mexico, and for other purposes.

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1418. An act to provide for the holding of court at Natchez, Mississippi, in the same manner as court is held at Vicksburg, Mississippi, and for other purposes.

At 6:48 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill, H.R. 3194, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2000, and for other purposes.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

# REPORT OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION FOR FISCAL YEAR 1998—MESSAGE FROM THE PRESIDENT—PM 77

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation.

## To the Congress of the United States:

I am pleased to transmit this report on the Nation's achievements in aeronautics and space during Fiscal Year (FY) 1998, as required under section 206 of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2476). Aeronautics and space activities involved 14 contributing departments and agencies of the Federal Government, and the results of their ongoing research and development affect the Nation in many ways.

A wide variety of aeronautics and space developments took place during FY 1998. The National Aeronautics and Space Administration (NASA) successfully completed five Space Shuttle flights. There were 29 successful Expendable Launch Vehicle (ELV) launches in FY 1998. Of those, 3 were NASA-managed missions, 2 were NASA-funded/Federal Aviation Administration (FAA)-licensed missions, 8 were Department of Defense (DOD)-managed missions, and 16 were FAA-licensed commercial launches. Scientists also made some dramatic new discoveries in various space-related fields such as space science, Earth science, and remote sensing, and life and micro-gravity science. In aeronautics, activities included work on high-speed research, advance subsonic technology, and technologies designed to improve the safety and efficiency of our com-

H.J. Res. 83. Joint resolution making further continuing appropriations for the fiscal year 2000, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H.Con. Res. 234. Concurrent resolution tabling the bill (H.R. 2466) entitled "An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2000, and for other purposes."

#### ENROLLED BILLS SIGNED

At 7:40 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 278. An act to direct the Secretary of the Interior to convey certain lands to the county of Rio Arriba, New Mexico.

S. 382. An act to establish the Minuteman Missile National Historic Site in the State of South Dakota, and for other purposes.

S. 1235. An act to amend part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 to allow railroad police officers to attend the Federal Bureau of Investigation National Academy for law enforcement training.

S. 1398. An act to clarify certain boundaries on maps relating to the Coastal Barrier Resources System.

The enrolled bills were signed subsequently by the President pro tempore (Mr. THURMOND).

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1180) to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide individuals with meaningful opportunities to work, and for other purposes.

At 9:23 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 85. Joint resolution appointing the day for the convening of the second session of the One Hundred Sixth Congress.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 235. Concurrent resolution providing for an additional sine die adjournment of the first session of the One Hundred Sixth Congress.

H. Con. Res. 236. Concurrent resolution correcting the enrollment H.R. 1180.

The message further announced that the House has passed the following bills, without amendment:

S. 28. An act to authorize an interpretive center and related visitor facilities within the Four Corners Monument Tribal Park, and for other purposes.

S. 67. An act to designate the headquarters building of the Department of Housing and

Urban Development in Washington, District of Columbia, as the "Robert C. Weaver Federal Building."

S. 438. An act to provide for the settlement of the water rights claims of the Chippewa Cree Tribe of the Rocky Boy's Reservation, and for other purposes.

S. 548. An act to establish the Fallen Timbers Battlefield and Fort Miamis National Historical Site in the State of Ohio.

S. 580. An act to amend title IX of the Public Health Service Act to revise and extend the Agency for Healthcare Policy and Research.

S. 574. An act to direct the Secretary of the Interior to make corrections to a map relating to the Coastal Barrier Resources System.

S. 580. An act to amend title IX of the Public Health Service Act to revise and extend the Agency for Healthcare Policy and Research.

S. 791. An act to amend the Small Business Act with respect to the women's business center program.

S. 1595. An act to designate the United States courthouse at 401 West Washington Street in Phoenix, Arizona, as the "Sandra Day O'Connor United States Courthouse."

S. 1866. An act to redesignate the Coastal Barrier Resources System as the "John H. Chafee Coastal Barrier Resources System."

The message also announced that the House agrees to the resolution (H. Res. 393) returning to the Senate the bill (S. 4) entitled the "Soldiers', Sailors', Airmen's, and Marines' Bill of Rights Act of 1999", in the opinion of the House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned to the Senate with a message communicating this resolution.

The message further announced that the House agrees to the resolution (H. Res. 394) returning to the Senate the bill (S. 1232) entitled the "Federal Erroneous Retirement Coverage Corrections Act", in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned to the Senate with a message communicating this resolution.

#### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-6227. A communication from the Associate Administrator, Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Papayas Grown in Hawaii: Increase in Assessment Rate" (FV-99-928-1 FR), received November 9, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6228. A communication from the Acting Administrator, Farm Service Agency, Farm and Foreign Agricultural Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Pro-

viding Notice to Delinquent Farm Loan Program Borrowers of the Potential for Cross-Servicing" (RIN0560-AF89), received November 16, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6229. A communication from the Congressional Review Coordinator, Regulatory Analysis and Development, Policy and Program Development, Animal and Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Mediterranean Fruit Fly; Removal of Quarantined Area" (Docket # 98-083-7), received November 16, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6230. A communication from the Congressional Review Coordinator, Regulatory Analysis and Development, Policy and Program Development, Animal and Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "User Fees; Agricultural Quarantine and Inspection Service" (Docket # 98-073-2), received November 16, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6231. A communication from the Under Secretary, Food, Nutrition and Consumer Services, transmitting, pursuant to law, the report of a rule entitled "National School Lunch Program, School Breakfast Program, Child and Adult Care Food Program: Amendments to the Infant Meal Program" (RIN0584-AB81), received November 16, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6232. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Paraquat; Pesticide Tolerances for Emergency Exemptions" (FRL #6392-9), received November 16, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6233. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, three reports relative to EPA regulatory programs; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6234. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC-6235. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a report relative to use of the U.S. Emergency Refugee and Migration Assistance Fund for the Timor crisis and the North Caucasus crisis; to the Committee on Foreign Relations.

EC-6236. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a report relative to the long-term strategy to carry out the counternarcotics responsibilities of the Department of State; to the Committee on Foreign Relations.

EC-6237. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Annuity Contracts" (Revenue Procedure 99-44), received November 16, 1999; to the Committee on Finance.

EC-6238. A communication from the Acting Trade Representative, Executive Office of the President, transmitting, a draft of proposed legislation entitled "Southeast Europe Trade Preference Act"; to the Committee on Finance.

EC-6239. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations; 64 FR 60706; 11/08/99", received November 16, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC-6240. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations; 64 FR 60709; 11/08/99", received November 16, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC-6241. A communication from the General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations; 64 FR 60711; 11/08/99", received November 16, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC-6242. A communication from the Federal Register Liaison Officer, Regulations and Legislation Division, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Safety and Soundness Standards" (RIN1550-AB27), received November 16, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC-6243. A communication from the Federal Register Liaison Officer, Regulations and Legislation Division, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness" (RIN1550-AB27), received November 16, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC-6244. A communication from the Managing Director, Office of the General Counsel, Federal Housing Finance Board, transmitting, pursuant to law, the report of a rule entitled "Allocation of Joint and Several Liability on Consolidated Obligations Among the Federal Home Loan Banks" (RIN3069-AA78), received November 17, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC-6245. A communication from the Assistant Attorney General, transmitting, a draft of proposed legislation entitled "Money Laundering Act of 1999"; to the Committee on Banking, Housing, and Urban Affairs.

EC-6246. A communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to the Cooperative Threat Reduction program; to the Committee on Armed Services.

EC-6247. A communication from the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, a report relative to DoD purchases from foreign entities; to the Committee on Armed Services.

EC-6248. A communication from the Acting Director, Defense Procurement, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Subcontracting Goals for Purchases Benefitting People who are Blind or Severely Disabled" (DFARS Case 99-D304), received November 16, 1999; to the Committee on Armed Services.

EC-6249. A communication from the Acting Director, Defense Procurement, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Debarment Investigation and Reports" (DFARS Case 99-D013), received November 16, 1999; to the Committee on Armed Services.

EC-6250. A communication from the Acting Director, Defense Procurement, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Comprehensive

Small Business Subcontracting Plans" (DFARS Case 99-D306), received November 16, 1999; to the Committee on Armed Services.

EC-6251. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval of Municipal Waste Combustor State Plan for Designated Facilities and Pollutants: Indiana" (FRL #6476-2), received November 27, 1999; to the Committee on Environment and Public Works.

EC-6252. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, two reports relative to EPA regulatory programs; to the Committee on Environment and Public Works.

EC-6253. A communication from the Director, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Plant 'Lesquerella thamnophila' (Zapapa bladderpod)" (RIN1018-AE54), received November 17, 1999; to the Committee on Environment and Public Works.

EC-6254. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the list of General Accounting Office reports for September 1999; to the Committee on Governmental Affairs.

EC-6255. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation dated November 10, 1999; to the Committee on the Budget.

EC-6256. A communication from the Executive Director, Committee for Purchase from People who are Blind or Severely Disabled, transmitting, pursuant to law, the report of a rule relative to an addition to and a deletion from the Procurement List, received September 13, 1999; to the Committee on Governmental Affairs.

EC-6257. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Prevailing Rate Systems; Definition of Napa County, California, to a Non-appropriated Fund Wage Area" (RIN3206-AI86), received November 16, 1999; to the Committee on Governmental Affairs.

EC-6258. A communication from the Board Members, Railroad Retirement Board, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC-6259. A communication from the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC-6260. A communication from the Executive Director, Securities and Exchange Commission, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC-6261. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report of the Office of Inspector General for the period April 1, 1999, through September 30, 1999; to the Committee on Governmental Affairs.

EC-6262. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the re-

port of a rule entitled "Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits", received November 16, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC-6263. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Ohio Regulatory Program", received November 17, 1999; to the Committee on Energy and Natural Resources.

EC-6264. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Indiana Regulatory Program" (SPATS No. IN-143-FOR), received November 17, 1999; to the Committee on Energy and Natural Resources.

EC-6265. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Indiana Regulatory Program" (SPATS No. IN-044-FOR), received November 17, 1999; to the Committee on Energy and Natural Resources.

EC-6266. A communication from the Chairman, Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Landowner Notification, Expanded Categorical Exclusions, and Other Environmental Filing Requirements" (Docket No. RM98-17-000), received November 17, 1999; to the Committee on Energy and Natural Resources.

EC-6267. A communication from the Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "Revisions to the NASA FAR Supplement on Property Reporting Requirements", received November 16, 1999; to the Committee on Commerce, Science, and Transportation.

EC-6268. A communication from the Chief, Policy and Programming Division, Common Carrier Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Implementation of the Local Competition Provision of the Telecommunications Act of 1996" (FCC 99-238) (CC Doc. 96-98), received November 17, 1999; to the Committee on Commerce, Science, and Transportation.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, with amendments and an amendment to the title:

S. 1561. A bill to amend the Controlled Substances Act to add gamma hydroxybutyric acid and ketamine to the schedules of control substances, to provide for a national awareness campaign, and for other purposes.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DASCHLE (for himself, Mr. HARKIN, Mr. INOUE, Mr. REID, and Mr. JOHNSON):

S. 1555. A bill to allow patients access to drugs and medical devices recommended and provided by health care practitioners that are not approved by the Food and Drug Administration, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE:

S. 1956. A bill to amend title 38, United States Code, to enhance the assurance of efficiency, quality, and patient satisfaction in the furnishing of health care to veterans by the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans Affairs.

By Mr. SCHUMER (for himself, Mr. ROBB, and Ms. MIKULSKI):

S. 1957. A bill to provide for the payment of compensation to the families of the Federal employees who were killed in the crash of a United States Air Force CT-43A aircraft on April 3, 1996, near Dubrovnik, Croatia, carrying Secretary of Commerce Ronald H. Brown and 34 others; to the Committee on Armed Services.

By Mr. KOHL:

S. 1958. A bill to amend the Child Nutrition Act of 1966 to authorize the Secretary of Agriculture to make grants for startup costs of school breakfast programs; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HARKIN:

S. 1959. A bill to provide for the fiscal responsibility of the Federal Government; to the Committee on Finance.

By Mr. KOHL (for himself and Mr. FEINGOLD):

S. 1960. A bill to provide for the appointment of 1 additional Federal district judge for the eastern district of Wisconsin, and for other purposes; to the Committee on the Judiciary.

By Mr. JOHNSON (for himself, Mr. KERREY, and Mr. WELLSTONE):

S. 1961. A bill to amend the Food Security Act of 1985 to expand the number of acres authorized for inclusion in the conservation reserve; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ASHCROFT:

S. 1962. A bill to amend the Congressional Budget Act of 1974 to protect Social Security and Medicare surpluses through strengthened budgetary enforcement mechanisms; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. MCCAIN:

S. 1963. A bill to authorize a study of alternatives to the current management of certain Federal lands in Arizona; to the Committee on Energy and Natural Resources.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 1964. A bill to designate the United States Post Office located at 14071 Peyton Drive in Chino Hills, California, as the Joseph Iletto Post Office; to the Committee on Governmental Affairs.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1965. A bill to direct the Secretary of the Interior, the Bureau of Reclamation, to conduct a feasibility study on the Jicarilla Apache Reservation in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HAGEL (for himself and Mr. ROBERTS):

S. 1966. A bill to provide for the immediate review by the Immigration and Naturalization Service of new employees hired by employers subject to Operation Vanguard or similar programs, and for other purposes; to the Committee on the Judiciary.

By Mr. COCHRAN (for himself and Mr. LOTT):

S. 1967. A bill to make technical corrections to the status of certain land held in trust for the Mississippi Band of Choctaw Indians, to take certain land into trust for that

Band, and for other purposes; to the Committee on Indian Affairs.

By Mr. DORGAN:

S. 1968. A bill to amend the Federal securities laws to enhance oversight over certain derivatives dealers and hedge funds, reduce the potential for such entities to increase systemic risk in the financial markets, enhance investor protections, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CRAIG (for himself, Mr. MURKOWSKI, and Mr. THOMAS):

S. 1969. A bill to provide for improved management of, and increases accountability for, outfitted activities by which the public gains access to and occupancy and use of Federal land, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SPECTER:

S. 1970. A bill to amend chapter 171 of title 28, United States Code, with respect to the liability of the United States for claims of military personnel for damages for certain injuries; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BAUCUS (for himself and Mr. BURNS):

S. Res. 233. A resolution expressing the sense of the Senate regarding the urgent need for the department of Agriculture to resolve certain Montana civil rights discrimination cases; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LEAHY (for himself, Mr. KENNEDY, Mrs. FEINSTEIN, Mr. JEFFORDS, Mr. TORRICELLI, Mrs. MURRAY, Mr. DURBIN, Mr. WELLSTONE, Mr. FEINGOLD, Mr. HARKIN, Mr. KERRY, Ms. MIKULSKI, and Mrs. BOXER):

S. Con. Res. 76. A concurrent resolution expressing the sense of Congress regarding a peaceful resolution of the conflict in the state of Chiapas, Mexico and for other purposes; to the Committee on Foreign Relations.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DASCHLE (for himself, Mr. HARKIN, Mr. INOUE, Mr. REID, and Mr. JOHNSON):

S. 1955. A bill to allow patients access to drugs and medical devices recommended and provided by health care practitioners that are not approved by the Food and Drug Administration, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

### ACCESS TO MEDICAL TREATMENT ACT

Mr. DASCHLE. Mr. President, today I am introducing the Access to Medical Treatment Act. I am pleased to be joined by Senators HARKIN, REID, INOUE and JOHNSON in this effort to increase individuals' freedom of choice in health care.

At the outset, I want to extend my thanks to my friend Berkley Bedell, who formerly represented the 6th District of Iowa, for first bringing this issue to my attention and for his assistance in developing this bill. Berkley Bedell has experienced first-hand

the life-saving potential of alternative treatments. His story underscores the need for the legislation I am introducing today and the importance of a national debate on ways to promote consumer choice and expand access to promising new medical treatments.

American consumers have already voted for expanded access to alternative treatments with their feet and their pocket-books. The Journal of the American Medical Association recently published a study by David Eisenberg and others that found that Americans spent nearly \$27 billion on alternative therapies in 1997. Americans made more visits to alternative practitioners—a total of 629 million—than to primary care doctors. Expenditures for alternative medicine professional services increased 45.2 percent between 1990 and 1997 to \$21.2 billion. Some type of alternative therapy is used by 46.3 percent of the American population.

Alternative therapies are also being incorporated into mainstream medical programs and practice. The curriculum of at least 22 of the nation's 125 medical schools include courses on alternative medicine. The National Institutes of Health now has a Center for Complementary and Alternative Medicine where work is underway to expand our knowledge of alternative therapies and their safe and effective use.

Despite the growing reliance on many types of alternative medicine, other alternative therapies remain unavailable because they do not fit the categories already carved out by Congress for exemption from the requirement to gain FDA approval. My bill would increase access to treatments that would normally be regulated by the FDA, but have not yet undergone the expensive and lengthy process currently required to gain FDA approval.

Given the popularity of alternative medicine among the American public and its growing acceptance among traditional medical practitioners, it would seem logical to remove some of the access barriers that consumers face when seeking certain alternative therapies. The time and expense currently required to gain FDA approval both discourages the exploration of innovative, life-saving treatments by individual practitioners, scientists and smaller companies and limits patient access to low-cost treatments.

Mr. President, the Access to Medical Treatment Act proposes one way to expand freedom of choice for medical consumers under carefully controlled situations. It asserts that individuals—especially those who face life-threatening afflictions for which conventional treatments have proven ineffective—should have the option of trying an alternative treatment, so long as they have been fully informed of the nature of the treatment, potential side effects, and given any other information necessary to meet carefully-crafted informed consent requirements. This is a choice that is rightly made by the consumer, and not dictated by the



Federal government. All treatments sanctioned by this Act must be prescribed by an authorized health care practitioner who has personally examined the patient. The practitioner must fully disclose all available information about the safety and effectiveness of any medical treatment, including questions that remain unanswered because the necessary research has not been conducted. Patients must be informed of any possible side effects or interactions with other drugs.

The bill carefully restricts the ability of practitioners to advertise or market unapproved drugs or devices or to profit financially from prescribing alternative medicine. This provision was included to ensure that practitioners keep the best interests of patients in mind and to retain incentives for seeking FDA approval. If an individual or a company wants to earn a profit from a product, they would be wise to go through the standard FDA approval process.

The bill protects patients by requiring practitioners to report any adverse reaction that could potentially have been caused by an unapproved drug or medical device. If an adverse reaction is reported, manufacture and distribution of the drug must cease pending a thorough investigation. If it is determined that the adverse reaction was caused by the drug or medical device, as a part of a total recall, the Secretary of the Department of Health and Human Services, along with the manufacturer, has the duty to inform all health care practitioners to whom the drug or device has been provided.

This legislation will help build a knowledge base regarding alternative treatments by requiring practitioners to report on effectiveness. This is critical because current information available about the effectiveness of many promising treatments is inadequate. The information generated through this Act will begin to reverse this reality, particularly because information will be collected and analyzed by the Center for Alternative Medicine at the National Institutes of Health.

In essence, this legislation addresses the fundamental balance between two seemingly irreconcilable interests: the protection of patients from dangerous and ineffective treatments and the preservation of the consumers' freedom to choose alternative therapies. The complexity of this policy challenge should not discourage us from seeking to solve it. I am convinced that the public good will be served by a serious attempt to reconcile these contradictory interests, and I am hopeful the discussion generated by introduction of this legislation will help point the way to its resolution.

Mr. President, this legislation represents an honest attempt to focus serious attention on the value of alternative treatments and overcome current obstacles to their safe development and utilization.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Access to Medical Treatment Act".

#### SEC. 2. DEFINITIONS.

In this Act:

(1) **ADULTERATED.**—The term "adulterated" means any unapproved drug or medical device that in whole or part consists of any filthy, putrid, or decomposed substance that has been prepared, packed, or held under unsanitary conditions where such drug or device may have been contaminated with such filthy, putrid, or decomposed substance and be injurious to health.

(2) **ADVERTISING CLAIM.**—The term "advertising claim" means any representation made or suggested by statement, word, device, sound, or any combination thereof with respect to medical treatment.

(3) **COSTS.**—The term "costs" means a charge to patients equal to the amount necessary to recover expenses for making or obtaining the unapproved drug or medical device and providing for its transport to the health care practitioner.

(4) **DANGER.**—The term "danger" means an adverse reaction, to an unapproved drug or medical device, that used as directed—

(A) causes serious harm to the patient in a case in which such harm would not have otherwise occurred; or

(B) causes harm that is more serious than side effects for drugs or medical devices approved by the Federal Food and Drug Administration for the same disease or condition.

(5) **DRUG.**—The term "drug" has the same meaning given that term in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)).

(6) **HEALTH CARE PRACTITIONER.**—The term "health care practitioner" means a physician or other individual who is a provider of health care, who is authorized under the law of a State to prescribe drugs or devices.

(7) **INTERSTATE COMMERCE.**—The term "interstate commerce" means commerce between any State or Territory and any place outside thereof, and commerce within the District of Columbia or within any other Territory not organized with a legislative body.

(8) **LEGAL REPRESENTATIVE.**—The term "legal representative" means a parent or other person who qualifies as a legal guardian under State law.

(9) **MEDICAL DEVICE.**—The term "medical device" has the same meaning given the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(10) **PATIENT.**—The term "patient" means any person who seeks medical treatment from a health care practitioner for a disease or health condition.

(11) **SECRETARY.**—The term "Secretary" means the Secretary of the Department of Health and Human Services.

(12) **UNAPPROVED DRUG OR MEDICAL DEVICE.**—The term "unapproved", with respect to a drug or medical device, means a drug or medical device that is not approved or authorized for manufacture, sale, and distribution in interstate commerce under section 505, 513, or 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355, 360c, and 360e) or under section 351 of the Public Health Service Act (42 U.S.C. 201).

#### SEC. 3. ACCESS TO MEDICAL TREATMENT.

(a) **IN GENERAL.**—Notwithstanding sections 501(a)(2)(B), 501(e) through 501(h), 502(f)(1), 505, 513, and 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351(a)(2)(B), 351(e) through 351(h), 352(f)(1), 355, 360c, and 360e) and section 351 of the Public Health Service Act (42 U.S.C. 201) or any other provision of Federal law, a patient may receive, and a health care practitioner may provide or administer, any unapproved drug or medical device that the patient desires or the legal representative of the patient authorizes if—

(1) the unapproved drug or medical device is recommended by a health care practitioner within that practitioner's scope of practice under State law;

(2) the provision or administration of the unapproved drug or medical device is not a violation of the laws of the State or States in which the activity is carried out; and

(3) the health care practitioner abides by all of the requirements in subsection (b).

(b) **REQUIREMENTS.**—A health care practitioner may recommend, provide or administer any unapproved drug or medical device for a patient, pursuant to subsection (a), if that practitioner—

(1) does not violate State law by providing or administering the unapproved drug or medical device;

(2) does not violate the Controlled Substances Act (21 U.S.C. 801 et seq.) by providing or administering the unapproved drugs;

(3) has concluded based on generally accepted principles and current information that the unapproved drug or medical device, when used as directed, will not cause a danger to the patient;

(4) provides the recommendation under circumstances that give the patient sufficient opportunity to consider whether or not to use such a drug or medical device and that minimize the possibility of coercion or undue influence by the health care practitioner;

(5) discloses to the patient any financial interest that such a practitioner may have in the drug or medical device;

(6) has informed the patient in writing, prior to recommending, providing, or administering the unapproved drug or medical device—

(A) that the unapproved drug or medical device is not approved by the Secretary as safe and effective for the condition of the patient and is considered experimental;

(B) of the foreseeable risks and benefits of the unapproved drug or medical device, including any risk to an embryo or fetus, and expected possible side effects or discomforts that the patient may experience and any medical treatment available if side effects occur;

(C) of any appropriate alternative procedures or courses of treatment (including procedures or courses of treatment that may involve the use of a drug or medical device that has been approved by the Food and Drug Administration), if any, that may be advantageous for the patient's condition;

(D) of any interactions the unapproved drug or medical device may have with other drugs, if any;

(E) of the active and inactive ingredients of the unapproved drug and the mechanism of action of the medical device, if known;

(F) of the health condition for which the unapproved drug or medical device is provided, the method of administration that will be used, and the unit dose;

(G) of the procedures that will be employed by the health care practitioner in using such a drug or medical device;



(H) of the extent, if any, to which confidentiality of records identifying the patient will be maintained;

(I) for use of such a drug or medical device involving more than minimal risk, of the treatments available if injury occurs, what such treatments involve, and where additional information regarding such treatments may be obtained;

(J) of any anticipated circumstances under which the patient's use of such a drug or medical device may be terminated by the health care practitioner without regard to the patient's consent;

(K) that the use of an such a drug or medical device is voluntary and that the patient may suspend or terminate treatment at any time;

(L) of the consequences of a patient's decision to withdraw from the use of such a drug or medical device;

(M) if any information described in subparagraphs (A) through (L) cannot be provided by the health care practitioner because such information is not known at the time the practitioner provides or administers such drug or medical device, that such information cannot be provided by the practitioner; and

(N) of any other information or disclosures required by applicable State law for the administration of experimental drugs or medical devices to human subjects;

(7) has not made, except as provided in subsection (d), any advertising claims for the unapproved drug or medical device;

(8) does not impose a charge for the unapproved drug or medical device in excess of costs;

(9) complies with requirements for reporting a danger in section 4; and

(10) has received a signed affidavit from the patient or the patient's legal representative confirming that the patient or the legal representative—

(A) has received the written information required by this subsection and understands it; and

(B) desires treatment with the unapproved drug or medical device as recommended by the health care practitioner.

(c) **MANDATORY DISCLOSURE.**—Any manufacturer of an unapproved drug or medical device shall disclose, to any health care practitioner that has received such drug or medical device from such manufacturer, all information available to such manufacturer regarding such drug or medical device to enable such practitioner to comply with the requirements of subsection (b)(3) and make a determination regarding the danger posed by such drug or medical device. Compliance with this subsection shall not constitute a violation of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(d) **ADVERTISING CLAIMS EXCEPTION.**—Subsection (b)(7) shall not apply to a health care practitioner's dissemination of information on the results of the practitioner's administration of the unapproved drug or medical device in a peer-reviewed journal, through academic or professional forums, or through statements by a practitioner to a patient. Subsection (b)(7) shall not apply to any accurate and truthful statement made in person by a health care practitioner to an individual or a prospective patient.

#### **SEC. 4. CESSATION OF USE, AND REPORTING OF, DANGEROUS DRUGS AND MEDICAL DEVICES.**

(a) **DUTY TO PROTECT PATIENT.**—If a health care practitioner discovers that an unapproved drug or medical device causes a danger to a patient, the practitioner shall immediately cease use and recommendation of the unapproved drug or medical device and provide to the manufacturer of the unapproved drug or medical device and the Director of

the Centers for Disease Control and Prevention—

(1) a written evaluation of the patient's medical condition before and after administration of the unapproved drug or medical device;

(2) a written evaluation of the adverse reaction, including its physiological manifestations, duration, and the effect of cessation of treatment upon the patient's condition;

(3) any other information the health care practitioner deems pertinent to an evaluation of the adverse reaction;

(4) the name, occupation, business address, and business telephone number of the physician;

(5) the name of the unapproved drug or medical device and a description of the method of administration and operation, dosage, and duration of treatment;

(6) the lot number, if any, of the unapproved drug or medical device; and

(7) an affidavit pursuant to section 1746 of title 28, United States Code, confirming that all statements made to the manufacturer are accurate.

(b) **MANUFACTURER'S DUTY TO REPORT.**—Any manufacturer of an unapproved drug or medical device that receives information provided under subsection (a) shall immediately—

(1) cease sale and distribution of the unapproved drug or medical device pending completion of an investigation to determine the actual cause of the danger;

(2) notify all health care practitioners to whom the manufacturer has provided the unapproved drug or medical device of the information provided to the manufacturer under subsection (a); and

(3) report to the Secretary in writing that an unapproved drug or medical device (identified by name, known method of operation, unit dose, and intended use) that the manufacturer provided to a health care practitioner for administration under this Act has been reported to be a danger to a patient and confirming that the manufacturer—

(A) has ceased sale and distribution of the unapproved drug or medical device pending completion of an investigation to determine the actual cause of the danger; and

(B) has notified health care practitioners to which the unapproved drug or medical device has been sent of the information it has received.

(c) **INVESTIGATION.**—

(1) **IN GENERAL.**—The Director of the Centers for Disease Control and Prevention, upon receipt of the information described in subsection (a), shall conduct an investigation of the unapproved drug or medical device that a health care practitioner has determined to cause a danger to a patient in order to make a determination of the actual cause of such danger.

(2) **REPORT TO SECRETARY.**—The Director of the Centers for Disease Control and Prevention shall prepare and submit a report to the Secretary regarding the determination made under paragraph (1), including a determination concerning whether the unapproved drug or medical device is or is not the actual cause of danger or whether the actual cause of danger cannot be determined.

(3) **DUTY OF SECRETARY.**—Upon receipt of the report described in paragraph (2), the Secretary shall—

(A) if the Director of the Centers for Disease Control and Prevention determines that the cause of such danger is the unapproved drug or medical device, direct the manufacturer of such drug or medical device to—

(i) cease manufacture, sale, and distribution of such drug or medical device; and

(ii) notify all health care practitioners to whom the manufacturer has provided such

drug or medical device to cease using or recommending such drug or medical device, and to return such drug or medical device to the manufacturer as part of a complete recall;

(B) if the Director of the Centers for Disease Control and Prevention determines that the cause of such danger is not such drug or medical device, direct the manufacturer of such drug or medical device to inform all health care practitioners to whom the manufacturer has provided such drug or medical device of such a determination; and

(C) if the Director of the Centers of Disease Control and Prevention cannot determine the cause of the danger, direct the manufacturer of the drug or medical device to inform all health care practitioners to whom the manufacturer has provided such drug or medical device of such a determination.

(d) **SECRETARY'S DUTY TO INFORM.**—Upon receipt of the report described in subsection (b)(3), the Secretary shall promptly disseminate information concerning the danger to all health care practitioners in the United States, to the Director of the National Center for Complementary and Alternative Medicine, and to agencies of the States that have responsibility for regulating unsafe or adulterated drugs and medical devices.

#### **SEC. 5. REPORTING OF RESULTS OF UNAPPROVED DRUGS AND MEDICAL DEVICES.**

(a) **REPORTING OF RESULTS.**—If a health care practitioner provides or administers an unapproved drug or medical device, that in the opinion of the health care practitioner, produces results that are more beneficial than results produced from any drug or medical device approved by the Food and Drug Administration, or produces other results regarding the effectiveness of the treatment relative to treatments approved by the Food and Drug Administration for the same condition, the practitioner shall provide to the manufacturer—

(1) the results of the administration of the drug or device;

(2) a written evaluation of the patient's medical condition before and after administration of the unapproved drug or medical device;

(3) the name, occupation, business address, and business telephone number of the physician;

(4) the name of the unapproved drug or medical device and a description of the method of operation and administration, dosing, and duration of treatment; and

(5) an affidavit pursuant to section 1746 of title 28, United States Code, confirming that all statements made to the manufacturer are accurate.

(b) **MANUFACTURER'S DUTY TO REPORT.**—Any manufacturer of an unapproved drug or medical device that receives information under subsection (a) shall provide to the Director of the National Center for Complementary and Alternative Medicine—

(1) a complete copy of the information;

(2) the name, business address, and business telephone number of the manufacturer;

(3) the name, business address, and business telephone number of the health care practitioner who supplied information to the manufacturer;

(4) the name of the unapproved drug or medical device;

(5) the known method of operation and administration of the unapproved drug or medical device;

(6) the per unit dose; and

(7) the intended use of the unapproved drug or medical device.

(c) **DIRECTOR'S DUTY TO MAKE PUBLIC.**—The Director of the National Center for Complementary and Alternative Medicine shall review and analyze information received pursuant to subsection (b) about an unapproved

drug or medical device and make available, on an Internet website and in writing upon request by any individual, an annual review and analysis of such information, and include a statement that such drug or medical device is not approved by the Food and Drug Administration.

**SEC. 6. OTHER LAWS NOT AFFECTED BY THIS ACT.**

This Act shall not be construed to have any effect on section 503A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353a) nor does this Act supersede any law of a State or political subdivision of a State, including laws governing rights and duties among health care practitioners and patients. This Act shall also not apply to statements or claims permitted or authorized under sections 403 and 403B of such Act (21 U.S.C. 343, 343-2). This Act shall not in any way adversely affect the distribution and marketing of vitamins and supplements.

**SEC. 7. AUTHORIZED ACTIVITIES OF HEALTH CARE PRACTITIONERS.**

(a) **INTRODUCTION IN INTERSTATE COMMERCE.**—To the extent necessary to comply with this Act, a health care practitioner may—

- (1) introduce an unapproved drug or medical device into interstate commerce;
- (2) deliver an unapproved drug or medical device for introduction into such commerce;
- (3) transport an unapproved drug or medical device in such commerce;
- (4) receive an unapproved drug or medical device in such commerce and deliver the unapproved drug or medical device; and
- (5) hold an unapproved drug or medical device for sale after shipment of the unapproved drug or medical device in such commerce.

(b) **RULE OF CONSTRUCTION.**—This Act shall not be construed to limit or interfere with the authority of a health care practitioner to prescribe, recommend, provide or administer to a patient for any condition or disease any unapproved drug or medical device lawful under the law of the State or States in which the health care practitioner practices.

**SEC. 8. PENALTY.**

A health care practitioner or manufacturer found to have knowingly violated this Act shall be denied coverage under this Act.

Mr. HARKIN. Mr. President, I am pleased to join Senator DASCHLE today for the introduction of the Access to Medical Treatment Act. This bill will allow greater freedom of choice and increased access in the realm of medical treatments, while preventing abuses of unscrupulous entrepreneurs. The Access to Medical Treatment Act allows individual patients and their properly licensed health care provider to use certain alternative and complementary therapies not approved by the Food and Drug Administration (FDA).

Mr. President, we have made several important changes to the legislation from last Congress.

We have improved the informed consent protections for patients by modeling them after the NIH's human subject protection regulations. The patient must be fully informed, orally and in writing of: the nature, content and methods of the medical treatment; that the treatment is not approved by the FDA; the anticipated benefits AND risks of the treatment; any reasonably foreseeable side effects that may result; the results of past applications of the treatment by the health care pro-

vider and others; the comparable benefits and risks of any available FDA-approved treatment conventionally used for the patient's condition; and any financial interest the provider has in the product.

Providers and manufacturers are required to report to the Centers for Disease Control and Prevention (CDC) any adverse effects, and must immediately cease use and manufacture of the product, pending a CDC investigation. The CDC is required to conduct an investigation of any adverse effects, and if the product is shown to cause any danger to patients, the physician and manufacturers are required to immediately inform all providers who have been using the product of the danger.

Our legislation ensures the public's access to reliable information about complementary and alternative therapies by requiring providers and manufacturers to report the results of the use of their product to the National Center for Complementary and Alternative Medicine at NIH, which is then required to compile and analyze the information for an annual report.

In addition, the provider and manufacturer may make no advertising claims regarding the safety and effectiveness of the treatment of therapy, and FDA has the authority to determine that the labeling of the treatment is not false or misleading.

Mr. President, this legislation preserves the consumer's freedom to choose alternative therapies while addressing the fundamental concern of protecting patients from dangerous treatments and those who would advocate unsafe and ineffective therapies.

It wasn't long ago that William Roentgen was afraid to publish his discovery of X-rays as a diagnostic tool. He knew they would be considered an "alternative medical practice" and widely rejected by the medical establishment. As everyone knows, X-rays are a common diagnostic tool today. Well into this century, many scientists resisted basic antiseptic techniques as quackery because they refused to accept the germ theory of disease. I think we can all be thankful the medical profession came around on that one.

In addition, the Office of Technology Assessment reported in a 1978 study that only about 25 percent of the practices of mainstream medicine were based on scientific evidence. And there is little evidence that has changed in the past two decades.

Today's consumers want alternatives. They want less invasive, less expensive preventive options. Americans want to stay healthy. And they are speaking with their feet and their pocketbooks. Mr. President, Americans spend \$30 billion annually on unconventional therapies. According to a recent survey published in the Journal of the American Medical Association (JAMA), nearly one-half of Americans use some kind of complementary and alternative medicine. These practices, which range from acupuncture, to chiropractic care,

to naturopathic, herbal and homeopathic remedies, are not simply complementary and alternative, but integral to how millions of Americans manage their health and treat their illnesses.

This legislation simply provides patients the freedom to use—with strong consumer protections—the complementary and alternative therapies and treatments that have the potential to relieve pain and cure disease. I thank Senator DASCHLE for his leadership on this issue, and urge my colleagues to cosponsor this bill.

By Ms. SNOWE:

S. 1956. A bill to amend title 38, United States Code, to enhance the assurance of efficiency, quality, and patient satisfaction in the furnishing of health care to veterans by the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

**THE VETERANS HEALTH CARE QUALITY ASSURANCE ACT**

Ms. SNOWE. Mr. President, I rise today to introduce the Veterans Health Care Quality Assurance Act of 1999.

This legislation contains a number of proposals designed to ensure that access to high quality medical services for our veterans is not compromised as the Department of Veterans Affairs—the VA—strives to increase efficiency in its nationwide network of veterans hospitals.

Mr. President, the VA administers the largest health care network in the U.S., including 172 hospitals, 73 home care programs, over 800 community-based outpatient clinics, and numerous other specialized care facilities.

Moreover, there are approximately 25 million veterans in the U.S., including approximately 19.3 million wartime veterans, and the number of veterans seeking medical care in VA hospitals is increasing. The FY99 VA medical care caseload was projected to increase by 160,000 veterans over the FY98 level, and is projected to increase by an additional 54,000 in FY00, reaching a total of 3.6 million veterans, an increase from 2.7 million in FY97. In FY00, outpatient visits at VA medical facilities are projected to increase by 2.5 million to 38.3 million. The average age of veterans is increasing as well, and this is expected to result in additional demands for health care services, including more frequent and long-term health needs.

The VA is attempting to meet this unprecedented demand for health care services without substantial increases in funding, largely through efforts to increase efficiency. Not surprisingly, these seemingly competing objectives are generating serious concerns about the possibility that quality of care and/or patient satisfaction are being sacrificed.

Mr. President, many VA regional networks and medical center directors report that timely access to high quality health care is being jeopardized,

and that is why I am introducing the Veterans Health Care Quality Assurance Act, legislation which seeks to ensure that no veteran's hospital is targeted unfairly for cuts, and that efforts to "streamline" and increase efficiency are not followed by the unintended consequence of undermining quality of care or patient satisfaction.

I believe that all veterans hospitals should be held to the same equitable VA-wide standards, and that quality and satisfaction must be guaranteed. Toward that end, the Veterans Health Care Quality Assurance Act calls for audits of every VA hospital every three years. This will ensure that each facility is subject to an outside, independent review of its operations on a regular basis, and each audit will include findings on how to improve services to our veterans.

The legislation will also establish an Office of Quality Assurance within the VA to ensure that steps taken to increase efficiency in VA medical programs do not undermine quality or patient satisfaction. This office will collect and disseminate information on efforts that have proven to successfully increase efficiency and resource utilization without undermining quality or patient satisfaction. The director of this new Office of Quality Assurance should be an advocate for veterans and would be placed in the appropriate position in the VA command structure to ensure that he or she is consulted by the VA Secretary and Under Secretary for Veterans Health on matters that impact quality or satisfaction.

The bill would require an initial report to Congress within six months of enactment, which would include a survey of each VA regional network and a report on each network's efforts to increase efficiency, as well as an assessment of the extent to which each network and VA hospital is or is not implementing the same uniform, VA-wide policies to increase efficiency.

Under the bill's reporting requirement, the VA would also be required to publish—annually—an overview of VA-wide efficiency goals and quality/satisfaction standards that each veterans facility should be held to. Further, the VA would be required to report to Congress on each hospital's standing in relation to efficiency, quality, and satisfaction criteria, and how each facility compares to the VA-wide average.

In an effort to encourage innovation in efforts to increase efficiency within the agency, the bill would encourage the dissemination and sharing of information throughout the VA in order to facilitate implementation of uniform, equitable efficiency standards.

Finally, Mr. President, the bill includes provisions calling for sharing of information on efforts to maximize resources and increase efficiency without compromising quality of care and patient satisfaction; exchange and mentoring initiatives among and between networks in order to facilitate sharing of such information; incentives for net-

works to increase efficiency and meet uniform quality/patient satisfaction targets; and formal oversight by the VA to ensure that all networks are meeting uniform efficiency criteria and that efforts to increase efficiency are equitable between networks and medical facilities.

Last week America celebrated Veterans Day 1999—81 years after the Armistice was signed in France that silenced the guns and ended the carnage of World War I. World War I was supposed to be "the war to end all wars" . . . the war that made the world safe for democracy. Sadly, that was not to be, and America has been repeatedly reminded that the defense of democracy is an on-going duty.

Mr. President, keeping our promise to our veterans is also an ongoing duty. The debt of gratitude we owe to our veterans can never be fully repaid. What we can and must do for our veterans is repay the financial debt we owe to them. Central to that solemn duty is ensuring that the benefits we promised our veterans when they enlisted are there for them when they need them.

I consider it a great honor to represent veterans, these brave Americans. So many of them continue to make contributions in our communities upon their transition from military to civilian life—through youth activities and scholarship programs, homeless assistance initiatives, efforts to reach out to fellow veterans in need, and national leadership on issues of importance to veterans and all Americans. The least we can do is make good on our promise, such as the promise of access to high quality health care.

I have nothing but the utmost respect for those who have served their country, and this legislation is but a small tribute to the men and women and their families who have served this country with courage, honor and distinction. They answered the call to duty when their country needed them, and this is a component of my on-going effort to ensure that we, as elected officials, answer their call when they need us.

I urge my colleagues to join me in supporting this legislation.

By Mr. KOHL:

S. 1958. A bill to amend the Child Nutrition Act of 1966 to authorize the Secretary of Agriculture to make grants for startup costs of school breakfast programs; to the Committee on Agriculture, Nutrition, and Forestry.

#### LEGISLATION TO IMPROVE PARTICIPATION IN THE SCHOOL BREAKFAST PROGRAM

Mr. KOHL. Mr. President, I rise to introduce legislation that will go far in helping children start their school day ready to learn.

The relationship between a healthy breakfast and both behavior and academic achievement has been documented by a number of studies. Fortunately, participation of schools in the School Breakfast program has in-

creased steadily since the program was made permanent in 1975. According to the School Breakfast Scorecard, a report recently released by the Food Research and Action Center (FRAC), a record number of schools—70,000—provided breakfast to school children last year. And nearly half of our states have 80 percent or more of their schools serving both lunch and breakfast under the National School Lunch and School Breakfast programs.

That's good news. The bad news is that the gulf between states with the highest rates of school participation in breakfast and those with the lowest is wide. 20 percent of our states have fewer than 55 percent of their schools participating in both breakfast and lunch; that's a full 20 points below the national average. In my home state of Wisconsin, only 30 percent of the schools that serve lunch also serve breakfast.

By another measure—participation of low-income children in both school lunch and breakfast—the results from the Scorecard are equally concerning. Nationally, only 42 percent of the kids receiving a free or reduced price lunch are also receiving breakfast; some states have fewer than 25 percent of kids receiving a free or reduced price lunch also receiving school breakfast.

The bill I am introducing today would help states provide an additional financial incentive for schools to participate in the school breakfast program. While there are a number of reasons that schools do not offer their children a school breakfast, certainly the barrier most difficult to overcome is the cost of the meals throughout the year. In short, the cost of the school breakfast program may simply be too high for some schools and school districts.

My bill authorizes, subject to appropriations, grants from the U.S. Department of Agriculture (USDA) to allow states to provide schools with an additional five cent per meal reimbursement during the first year in which they provide the school breakfast program. This additional reimbursement may be used to supplement both the existing federal per meal reimbursement and any additional per meal reimbursement provided by the state. To ensure that the grants are as effective as possible they are targeted to those states with poor school breakfast participation rates and that also have a program in place to promote school breakfast participation. State educational agencies will have the discretion to determine, based on participation rates, which schools or school districts will receive the supplemental assistance.

Providing a nutritious breakfast is the first step in ensuring that kids are ready to learn when they sit down at their desks each morning. The legislation I am introducing will go far in helping states and schools reach that goal and I encourage my colleagues to support it.

Mr. President, I ask unanimous consent that the text of this legislation and letters of support for my bill from Wisconsin State Superintendent John Benson and Wisconsin School Food Service Association President Renee Slotten-Beauchamp be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1958

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

# SECTION 1. FINANCIAL INCENTIVE GRANTS FOR SCHOOL BREAKFAST PROGRAMS.

Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) is amended by adding at the end the following:

“(f) STARTUP GRANTS FOR SCHOOL BREAKFAST PROGRAMS.—

“(1) DEFINITION OF ELIGIBLE SCHOOL.—In this subsection, the term ‘eligible school’ means a school that agrees to operate the school breakfast program established with the assistance provided under this subsection for a period of not less than 3 years.

“(2) GRANTS.—The Secretary may make grants to State educational agencies, from funds made available to the Secretary, for a fiscal year, to assist eligible schools in initiating school breakfast programs.

“(3) PAYMENT RATES.—A State educational agency shall use grants made available under this subsection during the first fiscal year an eligible school initiates a school breakfast program—

“(A) to increase by not more than 5 cents the annually adjusted payment for each breakfast served by the eligible school; or

“(B) to assist eligible schools with non-recurring expenses incurred in initiating school breakfast programs.

“(4) FUNDS SUPPLEMENTARY.—A grant under this subsection shall supplement any payment to which a State educational agency is entitled under subsection (b).

“(5) PLAN.—To be eligible to receive a grant under this subsection, a State educational agency shall submit to the Secretary a plan to initiate school breakfast programs conducted in the State, including a description of the manner in which the State educational agency shall provide technical assistance and funding to eligible schools in the State to initiate the programs.

“(6) STATE EDUCATIONAL AGENCY PREFERENCES.—In making a grant under this subsection for a fiscal year to initiate school breakfast programs, the Secretary shall provide a preference to a State educational agency that—

“(A) has in effect a State law that promotes the expansion of State participation in the school breakfast program during the year;

“(B) has significant public or private resources that will be used to carry out the expansion of the school breakfast program during the year;

“(C)(i) has not more than 55 percent of schools in the State that are participating in the school lunch program also participating in the school breakfast program; or

“(ii) has not more than 30 percent of the students in the State receiving free or reduced price lunch also receiving free or reduced price breakfasts; and

“(D) serves an unmet need among low-income children, as determined by the Secretary.

“(7) REALLOCATION.—The Secretary shall act in a timely manner to recover and reallocate to other State educational agencies or States any amount made available to a State

educational agency or State under this subsection that is not used by the agency or State within a reasonable period (as determined by the Secretary).

“(8) APPLICATION.—The Secretary shall allow application by State educational agencies on an annual basis for grants under this subsection.

“(9) PREFERENCES BY STATE EDUCATIONAL AGENCIES AND STATES.—In allocating funds within the State, each State educational agency shall give preference for assistance under this subsection to an eligible school that demonstrates the greatest need for assistance for a school breakfast program, based on the percentage of children not participating in the school breakfast program, as determined by the State educational agency.

“(10) MAINTENANCE OF EFFORT.—The expenditure of funds from State and local sources for the maintenance of the school breakfast program shall not be diminished as a result of grants made available under this subsection.”.

STATE OF WISCONSIN,

DEPARTMENT OF PUBLIC INSTRUCTION,

Madison, WI, November 5, 1999.

Hon. HERB KOHL,

US Senate, Washington, DC.

DEAR SENATOR KOHL:

This letter is in support of your proposed amendment for Startup Grants for School Breakfast Programs. I believe this legislation will provide an essential incentive for schools to implement a School Breakfast Program (SBP). Understanding that breakfast is an important component for academic achievement as well as the health of our nation's children, I am very concerned with Wisconsin's low participation in the SBP.

The federal startup grants for SBP will enhance the many public and private efforts within our state to increase the number of schools offering breakfast. Our state legislature has supported my budget initiative for a ten cents per breakfast reimbursement, effective in fiscal year 2001. Statewide public and nonpublic collaborative initiatives to promote the importance of breakfast include the Good Breakfast for Good Learning Breakfast Awareness Campaign, now in its third year. Public and private hunger prevention coalitions are actively promoting school breakfast. Professional organizations, such as the Wisconsin School Food Service Association and the Wisconsin Dietetic Association have taken a lead in school breakfast promotion efforts.

However, the bottom line is that schools cannot absorb financial loss in the Child Nutrition Programs. Fear that the SBP will have a negative impact on the school district's general fund has been detrimental to the promotional efforts identified above. The startup grants for SBP will help alleviate those fears and allow the children in this state to have access to a nourishing breakfast at the start of the school day.

I would like to commend your efforts to help the children in this state and the nation reach their full potential through promotion of School Breakfast Program.

Sincerely,

JOHN T. BENSON,  
State Superintendent.

WISCONSIN SCHOOL  
FOOD SERVICE ASSOCIATION,  
November 17, 1999.

Hon. HERB KOHL,

U.S. Senate, Washington DC.

DEAR SENATOR KOHL:

This letter is in support of your proposed amendment for Startup Grants for School Breakfast Programs.

The Wisconsin School Food Service Association with its 1700 members, along with

other allied associations have been working to increase the number of schools in Wisconsin offering breakfast. We understand the connection between good nutrition at breakfast and academic achievement. We see firsthand how difficult it is for a hungry child to concentrate on learning.

The federal startup grants for School Breakfast Programs will help our efforts to expand school breakfast participation. A real concern for many school districts is the cost of implementing and maintaining the program. During the 1997-98 school year Wisconsin schools lost an average of \$0.23 per breakfast served. Our association believes school food and nutrition programs deserve adequate funding and reasonable regulations to help maintain financial integrity and nutritional quality of meals. As a commitment to the children of Wisconsin we made state funding for school Breakfast Programs a high legislative priority this year. Our state legislature recently supported a ten-cent per breakfast reimbursement, which will be in effect for the fiscal year 2001. Federal Startup Grants would help districts implement school Breakfast Programs.

The Wisconsin School Food Service Association feels the children of Wisconsin and the nation deserve every educational opportunity to reach their full potential. School breakfast is one of those opportunities.

Our association commends you for your efforts to expand School Breakfast.

Sincerely,

RENEE SLOTTEN-BEAUCHAMP R.D., D.C.  
President.

By Mr. HARKIN:

S. 1959. A bill to provide for the fiscal responsibility of the Federal Government; to the Committee on Finance.

## THE FISCAL RESPONSIBILITY ACT

Mr. HARKIN. Mr. President, today as we are debating how to protect Social Security and Medicare while making necessary investments in our nation's future, I am introducing legislation designed to provide some options for reducing spending. In an effort to promote greater fiscal responsibility within the federal government, “The Fiscal Responsibility Act” would eliminate special interest tax loopholes, reduce corporate welfare, eliminate unnecessary government programs, reduce wasteful spending, enhance government efficiency and require greater accountability.

The reforms contained in this bill would result in savings of up to \$20 billion this year and up to \$140 billion over the next five years. These savings could be used to pay down the federal debt, shore up Social Security and Medicare, provide middle-class tax relief, and/or pay for needed investment in education, health care and other priorities.

While I recognize that everyone won't agree on each of the provisions of this measure, I believe it is important for us to put forward options to be considered. I hope that we can work together on a bipartisan basis to produce a set of reforms such as these to lay a path of fiscal responsibility as we move into the next century.

The following is a summary of the bill's major provisions:

Elimination of Unnecessary Government Programs.

A number of outdated or unnecessary programs would be eliminated, including Radio Marti, TV Marti and certain nuclear energy research initiatives. These changes would save over \$150 million this year.

Reduction of Wasteful Spending and Government Efficiency Improvements.

\$13 billion a year is lost to Medicare waste and abuse. This would be substantially reduced through a series of comprehensive reforms. In addition, taxpayer support for the cost of certain nuclear energy lobbying activities would be eliminated.

A number of common sense steps would be implemented to improve the efficiency of government activities.

Spending by government agencies on travel, printing, supplies and other items would be frozen at 1998 levels. This change would save \$2.8 billion this year and about \$12 billion over 5 years.

Pentagon spending would be tied to the rate of inflation. This would force the Pentagon to reduce duplication and other inefficiencies identified by government auditors and outside experts. This change would save taxpayers \$9.2 billion this year and approximately \$69 billion over the next 5 years.

Enhancing the government's ability to collect student loan defaults would save taxpayers \$892 million this year and \$1 billion over five years.

Eliminating Special Interest Tax Loopholes and Give-Aways.

Tobacco use causes 400,000 deaths a year and costs taxpayers billions in preventable health care costs. And, yet, taxpayers are forced to cough up about \$2 billion a year to subsidize the advertising and marketing of this deadly product. The tax deductibility of tobacco promotion would be ended and these funds would be saved.

A loophole that allows estates valued above \$10 million to elude taxation would be closed.

The federal government allows mining companies to extract minerals from federally-owned lands at an actual cost of pennies on the dollar. This special interest giveaway would be ended, saving taxpayers \$750 million over the next five years.

American citizens temporarily working in foreign countries can earn up to \$70,000 without paying any U.S. taxes. This unfair provision would be eliminated, bringing in an estimated \$15.7 billion over the next 5 years.

A foreign tax credit that allows big oil and gas companies to escape paying their fair share for royalties would be limited. This common sense change would generate \$3.1 billion over 5 years to reduce the debt our kids and grandkids will inherit.

Increased Accountability.

Tobacco companies hook 3,000 children a day on their deadly products. One in three of these kids will be sentenced to an early death. Tobacco companies should be held accountable. Accordingly, a goal of reducing teen smoking by at least 15 percent each year would be set. If tobacco companies

fail to meet this goal, they would have to pay a penalty. Such a system would generate approximately \$6 billion this year and \$20 billion over the next 5 years. It would also significantly reduce the number of young children who become addicted to tobacco.

Mr. President, I urge my colleagues to review the provisions in this bill and look forward to moving forward next year on a fiscally responsible budget plan.

By Mr. KOHL (for himself and Mr. FEINGOLD):

S. 1960. A bill to provide for the appointment of 1 additional Federal district judge for the eastern district of Wisconsin, and for other purposes; to the Committee on the Judiciary.

#### THE FEDERAL JUDGESHIP FOR NORTHEASTERN WISCONSIN ACT

Mr. KOHL. Mr. President, I rise today to introduce the Federal Judgeship for Northeastern Wisconsin Act of 1999. This bill would create one additional judgeship in the eastern district of Wisconsin and seat it in Green Bay, at the center of a region in desperate need of a district court. Let me explain how an additional judgeship could alleviate the stress that the current system places on business, law enforcement agents, witnesses, victims and individual litigants in northeastern Wisconsin.

First, while the four full-time district court judges for the eastern district of Wisconsin currently preside in Milwaukee, for most litigants and witnesses in northeastern Wisconsin, Milwaukee is well over 100 miles away. In fact, as the courts are currently arranged, the northern portion of the eastern district is more remote from a Federal court than any other major population center, commercial or industrial, in the United States. Thus, litigants and witnesses must incur substantial costs in traveling from northern Wisconsin to Milwaukee—costs in terms of time, money, resources, and effort. Indeed, driving from Green Bay to Milwaukee takes nearly two hours each way. Add inclement weather or a departure point north of Green Bay—such as Oconto or Marinette—and often the driving time alone actually exceeds the amount of time witnesses spend testifying.

Second, Mr. President, the few Wisconsin Federal judges serve a disproportionately large population. Last year, I commissioned a study by the General Accounting Office which revealed that Wisconsin Federal judges have to serve the highest population among all federal judges. Each sitting Federal judge in Wisconsin serves an average population of 859,966, while the remaining federal judges across the country—more than 650—serve less than half that number, with an average of 417,000 per judge. For example, while Louisiana has fewer residents than Wisconsin, it has 22 Federal judges, nearly four times as many as our state.

Third, Mr. President, Federal crimes remain unacceptably high in north-

eastern Wisconsin. These crimes range from bank robbery and kidnaping to Medicare and Medicaid fraud. However, without the appropriate judicial resources, a crackdown on Federal crimes in the upper part of the state will be made enormously more difficult. Additionally, under current law, the Federal Government is required to prosecute all felonies committed by Indians that occur on the Menominee Reservation. The reservation's distance from the Federal prosecutors and courts—more than 150 miles—makes these prosecutions problematic. And because the Justice Department compensates attorneys, investigators and sometimes witnesses for travel expenses, the existing system costs all of us. Without an additional judge in Green Bay, the administration of justice, as well as the public's pocketbook, will suffer enormously.

Fourth, many manufacturing and retail companies are located in northeastern Wisconsin. These companies often require a Federal court to litigate complex price-fixing, contract, and liability disputes with out-of-State businesses. But the sad truth is that many of these legitimate cases are never even filed—precisely because the northern part of the State lacks a Federal court. Mr. President, this hurts businesses not only in Wisconsin, but across the Nation.

Fifth, the creation of an additional judgeship in the Eastern District of Wisconsin is justified based on caseload. The Judicial Conference, the administrative and statistical arm of the Federal judiciary, makes biannual recommendations to Congress regarding the necessity of additional judgeships using a system of weighted filings—that is, the total number of cases modified by the average level of case complexity. In the Judicial Conference's most recent recommendations, new positions were justified where a district's workload exceeded 435 weighted filings per judge. Such high caseloads are common in the eastern district of Wisconsin, peaking in 1996 with an overwhelming 453 weighted filings. On this basis, an additional judgeship for the eastern district of Wisconsin is warranted.

Mr. President, our legislation is simple, effective and straightforward. It creates an additional judgeship for the eastern district, requires that one judge hold court in Green Bay, and gives the chief judge of the eastern district flexibility to designate which judge holds court there. And this legislation would increase the number of Federal district judges in Wisconsin for the first time since 1978. During that period, nearly 150 new Federal district judgeships have been created nationwide, but not a single one in Wisconsin.

And don't take my word for it, Mr. President, ask the people who would be most affected: since 1994, each and every sheriff and district attorney in northeastern Wisconsin has urged me to create a Federal district court in

Green Bay. I ask unanimous consent that a letter from these law enforcement officials be included in the RECORD at the conclusion of my remarks. I also ask unanimous consent that a letter from the U.S. Attorney for the eastern district of Wisconsin, Tom Schneider, also be included. This letter expressed the support of the entire Federal law enforcement community in Wisconsin—including the FBI, the DEA and the BATF—for the legislation we are introducing. They needed this additional judicial resource in 1994, and certainly, Mr. President, that need has only increased over the last five years.

Perhaps most important, the people of Green Bay also agree on the need for an additional Federal judge, as the endorsement of our proposal by the Green Bay Chamber of Commerce demonstrates.

In conclusion, Mr. President, having a Federal judge in Green Bay will reduce costs and inconvenience while increasing judicial efficiency. But most important, it will help ensure that justice is more available and more affordable to the people of northeastern Wisconsin. For these sensible reasons, I urge my colleagues to support this legislation, either separately or as part of an omnibus judgeship bill that I hope Congress will consider next session. The Judicial Conference has recommended the creation of over 60 new judgeships, yet not one has been created since 1990. Should such a bill be considered, I will be right there to ensure that Northeastern Wisconsin is included.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1960

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Judgeship for Northeastern Wisconsin Act of 1999".

#### SEC. 2. ADDITIONAL FEDERAL DISTRICT JUDGE FOR THE EASTERN DISTRICT OF WISCONSIN.

(a) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the eastern district of Wisconsin.

(b) TABLES.—In order that the table contained in section 133(a) of title 28, United States Code, reflects the change in the total number of permanent district judgeships authorized under subsection (a), such table is amended by amending the item relating to Wisconsin to read as follows:

"Wisconsin:	
"Eastern .....	5
"Western .....	2".

(c) HOLDING OF COURT.—The chief judge of the eastern district of Wisconsin shall designate 1 judge who shall hold court for such district in Green Bay, Wisconsin.

#### SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out

this Act, including such sums as may be necessary to provide appropriate space and facilities for the judicial position created by this Act.

AUGUST 8, 1994.

U.S. Senator HERB KOHL,  
*Hart Senate Office Building, Washington, DC.*

DEAR SENATOR KOHL: We are writing to urge your support for the creation of a Federal District Court in Green Bay. The Eastern District of Wisconsin includes the 28 eastern-most counties from Forest and Florence Counties in the north to Kenosha and Walworth Counties in the south.

Green Bay is central to the northern part of the district which includes approximately one third of the district's population. Currently, all Federal District Judges hold court in Milwaukee.

A federal court in Green Bay would make federal proceedings much more accessible to the people of northern Wisconsin and would alleviate many problems for citizens and law enforcement. Travel time of 3 or 4 hours each way makes it difficult and expensive for witnesses and officers to go to court in Milwaukee. Citizen witnesses are often reluctant to travel back and forth to Milwaukee. It often takes a whole day to travel to come to court and testify for a few minutes. Any lengthy testimony requires an inconvenient and costly overnight stay in Milwaukee. Sending officers is costly and takes substantial amounts of travel time, thereby reducing the number of officers available on the street. Many cases are simply never referred to federal court because of this cost and inconvenience.

In some cases there is no alternative. For example, the Federal government has the obligation to prosecute all felony offenses committed by Indians on the Menominee Reservation. Yet the Reservation's distance from the Federal Courts and prosecutors in Milwaukee poses serious problems. Imagine the District Attorney of Milwaukee being located in Keshena or Green Bay or Marinette and trying to coordinate witness interviews, case preparation, and testimony.

As local law enforcement officials, we try to work closely with other local, state and federal agencies, and we believe establishing a Federal District Court in Green Bay will measurably enhance these efforts. Most important, a Federal Court in Green Bay will make these courts substantially more accessible to the citizens who live here.

We urge you to introduce and support legislation to create and fund an additional Federal District Court in Green Bay.

Gary Robert Bruno, Shawano and Menominee County District Attorney.

Jay Conley, Oconto County District Attorney.

John DesJardins, Outagamie County District Attorney.

Douglas Drexler, Florence County District Attorney.

Guy Dutcher, Waushara County District Attorney.

E. James FitzGerald, Manitowoc County District Attorney.

Kenneth Kratz, Calumet County District Attorney.

Jackson Main, Jr., Kewaunee County District Attorney.

David Miron, Marinette County District Attorney.

Joseph Paulas, Winnebago County District Attorney.

Gary Schuster, Door County District Attorney.

John Snider, Waupaca County District Attorney.

Ralph Uttke, Langlade County District Attorney.

Demetrio Verich, Forest County District Attorney.

John Zakowski, Brown County District Attorney.

William Aschenbrener, Shawano County Sheriff.

Charles Brann, Door County Sheriff.

Todd Chaney, Kewaunee County Sheriff.

Michael Donart, Brown County Sheriff.

Patrick Fox, Waushara County Sheriff.

Bradley Gehring, Outagamie County Sheriff.

Daniel Gillis, Calumet County Sheriff.

James Kanikula, Marinette County Sheriff.

Norman Knoll, Forest County Sheriff.

Thomas Kocourek, Manitowoc County Sheriff.

Robert Kraus, Winnebago County Sheriff.

William Mork, Waupaca County Sheriff.

Jeffrey Rickaby, Florence County Sheriff.

David Steger, Langlade County Sheriff.

Kenneth Woodworth, Oconto County Sheriff.

Richard Awonhopay, Chief, Menominee Tribal Police.

Richard Brey, Chief of Police, Manitowoc.

Patrick Campbell, Chief of Police, Kaukauna.

James Danforth, Chief of Police, Oneida Public Safety.

Donald Forcey, Chief of Police, Neenah.

David Gorski, Chief of Police, Appleton.

Robert Langan, Chief of Police, Green Bay.

Michael Lien, Chief of Police, Two Rivers.

Mike Nordin, Chief of Police, Sturgeon Bay.

Patrick Ravet, Chief of Police, Marinette.

Robert Stanke, Chief of Police, Menasha.

Don Thaves, Chief of Police, Shawano.

James Thorne, Chief of Police, Oshkosh.

U.S. DEPARTMENT OF JUSTICE,

*Milwaukee, WI, August 9, 1994.*

To: The District Attorney's, Sheriffs and Police Chiefs Urging the Creation of a Federal District Court in Green Bay.

From: Thomas P. Schneider, United States Attorney, Eastern District of Wisconsin.

Thank you for your letter of August 8, 1994, urging the creation of a Federal District Court in Green Bay. You point out a number of facts in your letter:

(1) Although 1/3 of the population of the Eastern District of Wisconsin is in the northern part of the district, all of the Federal District Courts are located in Milwaukee.

(2) A federal court in Green Bay would be more accessible to the people of northern Wisconsin. It would substantially reduce witness travel time and expenses, and it would make federal court more accessible and less costly for local law enforcement agencies.

(3) The federal government has exclusive jurisdiction over most felonies committed on the Menominee Reservation, located approximately 3 hours from Milwaukee. The distance to Milwaukee is a particular problem for victims, witnesses, and officers from the Reservation.

I have discussed this proposal with the chiefs of the federal law enforcement agencies in the Eastern District of Wisconsin, including the Federal Bureau of Investigation, Federal Drug Enforcement Administration, Bureau of Alcohol, Tobacco and Firearms, Secret Service, U.S. Marshal, U.S. Customs Service, and Internal Revenue Service-Criminal Investigation Division. All express support for such a court and give additional reasons why it is needed.

Over the past several years, the FBI, DEA, and IRS have initiated a substantial number of investigations in the northern half of the district. In preparation for indictments and trials, and when needed to testify before the Grand Jury or in court, officers regularly travel to Milwaukee. Each trip requires 4 to 6 hours of round trip travel per day, plus the actual time in court. In other words, the



agencies' already scarce resources are severely taxed. Several federal agencies report that many cases which are appropriate for prosecution are simply not charged federally because local law enforcement agencies do not have the resources to bring these cases and officers back and forth to Milwaukee.

Nevertheless, there have been a substantial number of successful federal investigations and prosecutions from the Fox Valley area and other parts of the Northern District of Wisconsin including major drug organizations, bank frauds, tax cases, and weapons cases.

It is interesting to note that the U.S. Bankruptcy Court in the Eastern District of Wisconsin holds hearings in Green Bay, Manitowoc, and Oshkosh, all in the northern half of the district. For the past four years approximately 29 percent of all bankruptcy filings in the district were in these three locations.

In addition, we continue to prosecute most felonies committed on the Menominee Reservation. Yet, the Reservation's distance from the federal courts in Milwaukee poses serious problems. A federal court in Green Bay is critically important if the federal government is to live up to its moral and legal obligation to enforce the law on the Reservation.

In summary, I appreciate and understand your concerns and I join you in urging the creation of a Federal District Court in Green Bay.

THOMAS P. SCHNEIDER,  
United States Attorney,  
Eastern District of Wisconsin.

By Mr. JOHNSON (for himself,  
Mr. KERREY, and Mr.  
WELLSTONE):

S. 1961. A bill to amend the Food Security Act of 1985 to expand the number of acres authorized for inclusion in the conservation reserve; to the Committee on Agriculture, Nutrition, and Forestry.

THE CONSERVATION RESERVE PROGRAM  
ACREAGE EXPANSION ACT

• Mr. JOHNSON. Mr. President, I rise today to introduce legislation which would increase the acreage cap currently in place for the Conservation Reserve Program (CRP) under the United States Department of Agriculture (USDA).

CRP continues to be a popular alternative for landowners who wish to take a portion of their land out of production for conservation purposes. While the program serves a multitude of beneficial purposes, there are items of the program that we must continue to work on in Congress. As a start, I am introducing companion legislation to Congressman COLLIN PETERSON's (D-MN) bill in the House to increase the acreage allotted in CRP up to 45 million acres.

CRP has undergone significant changes as a result of the 1996 Farm Bill. Wildlife benefits provided by certain grass species and conservation practices are now heavily emphasized in the Environmental Benefits Index (EBI) which sets forth eligibility into the program. While many of these changes have been welcomed because of the favorable effect they have on conservation and the environment, I have some concerns with certain require-

ments farmers face in relation to the EBI requirements.

First, producers with existing CRP contracts that have tracts of land accepted for re-enrollment into CRP have indicated that in certain cases, they were required to plow under at least half of the existing grass stand on those tracts in order to plant new grass seeds to meet the EBI criteria. Those participants are concerned this may lead to soil erosion instead of soil conservation on tracts that are already highly erodible because plowing up half of grass stand exposes that land to the unpredictable forces of weather. Moreover, it often requires more than one growing season for new grass species to take root and establish adequate cover in order to protect habitat. That said, both producers and conservationists have expressed concern to me that this requirement may place habitat protection in a precarious position in some instances. Finally, the costs of seed varieties called for in the EBI, especially for native grass species, have skyrocketed to a point here it is oftentimes cost-prohibitive for producers to meet the requirements of establishing a new grass stand. These and other matters I plan to address with the input of all interested parties as we proceed with the legislation.

However, on the whole CRP remains a very popular program in my home state of South Dakota and across the country. During the twelve signups held between 1986 and 1992, 36.4 million acres were enrolled in CRP. USDA estimates that the average erosion rate on enrolled acres was reduced from 21 to less than 2 tons per acre per year. Retiring these lands also expanded wildlife habitat, enhanced water quality, and restored soil. The annual value of these benefits has been estimated from less than \$1 billion to more than \$1.5 billion; some estimates of these benefits approach or exceed annual costs, especially in areas of heavy participation. While major changes cannot occur to CRP until we undertake a renewed effort to change the Farm Bill, I am hopeful that Congress reconsider the current Farm Bill in 2000.

In addition to supporting CRP, I have co-sponsored S. 1426, the Conservation Security Act of 1999. This bill creates a voluntary incentive program to encourage conservation activities by landowners. This bill includes a variety of solid conservation practices that landowners may choose from in order to qualify for certain incentives. Some of the conservation practices include conservation tillage, runoff control, buffer strips, wetland restoration, and wildlife management.

I believe the Conservation Security Act is a strong piece of legislation that would benefit agriculture producers, wildlife, and the environment. I will continue to support and work with Senator HARKIN in seeing this legislation move forward. •

By Mr. ASHCROFT:

S. 1962. A bill to amend the Congressional Budget Act of 1974 to protect Social Security and Medicare surpluses through strengthened budgetary enforcement mechanisms; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have 30 days to report or be discharged.

THE SOCIAL SECURITY AND MEDICARE SAFE  
DEPOSIT BOX ACT

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1962

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Security and Medicare Safe Deposit Box Act of 1999".

SEC. 2. PROTECTION OF SOCIAL SECURITY AND  
MEDICARE SURPLUSES.

(a) MEDICARE SURPLUSES OFF-BUDGET.—Notwithstanding any other provision of law, the net surplus of any trust fund for part A of Medicare shall not be counted as a net surplus for purposes of—

(1) the budget of the United States Government as submitted by the President;

(2) the congressional budget; or

(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) POINTS OF ORDER TO PROTECT SOCIAL SECURITY AND MEDICARE SURPLUSES.—Section 312 of the Congressional Budget Act of 1974 is amended by adding at the end the following new subsection:

"(g) POINTS OF ORDER TO PROTECT SOCIAL SECURITY AND MEDICARE SURPLUSES.—

"(1) CONCURRENT RESOLUTIONS ON THE BUDGET.—It shall not be in order in the House of Representatives or the Senate to consider any concurrent resolution on the budget, or conference report thereon or amendment thereto, that would set forth an on-budget deficit for any fiscal year.

"(2) SUBSEQUENT LEGISLATION.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report if—

"(A) the enactment of that bill or resolution as reported;

"(B) the adoption and enactment of that amendment; or

"(C) the enactment of that bill or resolution in the form recommended in that conference report, would cause or increase an on-budget deficit for any fiscal year.

"(3) DEFINITION.—For purposes of this section, the term 'on-budget deficit', when applied to a fiscal year, means the deficit in the budget as set forth in the most recently agreed to concurrent resolution on the budget pursuant to section 301(a)(3) for that fiscal year."

(c) CONTENT OF CONCURRENT RESOLUTION ON THE BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) the receipts, outlays, and surplus or deficit in the Federal Old-Age and Survivors



Insurance Trust Fund and the Federal Disability Insurance Trust Fund, combined, established by title II of the Social Security Act;".

(d) SUPER MAJORITY REQUIREMENT.—

(1) POINT OF ORDER.—Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting "312(g)," after "310(d)(2).".

(2) WAIVER.—Section 904(d)(2) of the Congressional Budget Act of 1974 is amended by inserting "312(g)," after "310(d)(2).".

#### SEC. 4. PROTECTION OF SOCIAL SECURITY AND MEDICARE SURPLUSES.

(a) IN GENERAL.—Chapter 11 of subtitle II of title 31, United States Code, is amended by adding before section 1101 the following:

##### "§ 1100. Protection of social security and medicare surpluses

"The budget of the United States Government submitted by the President under this chapter shall not recommend an on-budget deficit for any fiscal year covered by that budget."

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 11 of title 31, United States Code, is amended by inserting before the item for section 1101 the following:

"1100. Protection of Social Security and Medicare Surpluses."

#### SEC. 5. EFFECTIVE DATE.

This Act shall take effect upon the date of its enactment and the amendments made by this Act shall apply to fiscal year 2001 and subsequent fiscal years.

By Mr. MCCAIN:

S. 1963. A bill to authorize a study of alternatives to the current management of certain Federal lands in Arizona; to the Committee on Energy and Natural Resources.

#### ALTERNATIVE LAND MANAGEMENT STUDY FOR THE BARRY GOLDWATER MILITARY TRAINING RANGE

• Mr. MCCAIN. Mr. President, I rise today to introduce legislation that will require a comprehensive study of alternative land management options for areas comprising the Barry Goldwater military training range and Organ Pipe National Monument in Arizona.

Earlier this year, the Congress finalized the Department of Defense Authorization Act for fiscal year 2000 which included language to renew a land-withdrawal for the Barry Goldwater training range for an additional twenty-five years to the year 2024. The final proposal transferred land management of the natural and cultural resources within the range to the Air Force and the Navy, a decision that was fully supported by both the Interior Department and the President's Council on Environmental Quality.

In practical effect, the Air Force and Marine Corps have been performing the management functions at the Goldwater range for many years, and doing a very good job of it, according to most observers. In fact, the Department of Defense already dedicates significant resources to land and natural resource management of the Range. The decision to formally transfer management recognizes the superior fiscal and manpower resources available to the military Services, who also have the most compelling interest in maintaining future training access to the range,

which can only be accomplished by effectively addressing environmental concerns regarding its use.

During consideration of the legislative environmental impact statements and subsequent renewal proposals, no one disagreed that essential military training should continue on the range. However, several environmental groups registered concerns about the Administration's proposal for DOD management of the Range and expressed their fears that the military Services would be inappropriate and ineffective natural resources managers. I took personal interest in these expressed concerns and advocated for the strongest possible language in the final withdrawal bill to redress any potential problems should the land management of these areas ever be jeopardized under primary military authority.

However, in response to continuing apprehension about proper land management in the newly passed withdrawal package, I worked with the concerned individuals to develop language directing the Department of the Interior to study and make recommendations for alternative land management scenarios for the range. Such a comprehensive study would provide information to guide the Administration and the Congress in taking appropriate future action to ensure that the cultural and natural resources on the range will continue to be preserved and protected in future years.

Although I was unable to convince my colleagues that studying various land management options should be added to the Defense authorization package, I am continuing to explore appropriate land management options for the long-term. I do so because it is important that we assure that the best possible protection will be provided to the unique natural and cultural resources of these areas, consistent with the primary purpose of the range.

While the Barry Goldwater Range will continue to serve its vital purpose, we have an obligation to ensure proper stewardship of our natural resources. This study will provide us with the critical information necessary to fulfill that obligation. Once an alternative management study is completed, I will ensure that any recommendations for improved management of the Goldwater Range are considered and acted on, as necessary, by the Congress.

I strongly urge my colleagues to work with me to pass this legislation to ensure that the Goldwater Range is managed by the agency most qualified to protect the public's interest and preserve the precious land and natural resources of these pristine areas for future generations.●

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 1964. A bill to designate the United States Post Office located at 14071 Peyton Drive in Chino Hills, California, as the Joseph Iletto Post Office; to the Committee on Governmental Affairs.

#### DESIGNATION OF THE JOSEPH ILETO POST OFFICE

Mrs. FEINSTEIN. Mr. President, today I am pleased to be joined by Senator BOXER in introducing a bill to designate the United States Post Office located at 14071 Peyton Drive in Chino Hills, California, as the "Joseph Iletto Post Office." This post office would be designated in memory and in celebration of the life of Joseph Santos Iletto, the Filipino American postal worker who was brutally gunned down during his postal route in August by Buford Furrow, Jr., a white supremacist. Only hours earlier, this same assailant opened fire on the North Valley Jewish Community Center, wounding three young children, one teenager, and one elderly woman.

Joseph Iletto touched many lives. He was a kind-hearted, intelligent man who gave so much to those he loved and even to those he did not know. He was known for his unselfishness and his willingness to give a helping hand to anyone in need. In fact, the day Joseph Iletto was killed, he was filling in for another mail carrier, as he had done so many times before. His life and death exemplify the ultimate sacrifice of public service, which we too often take for granted. As a U.S. Postal Service employee, he served our nation with honor and dignity and died doing his job.

My heart goes out to the Iletto family, who is grieving over the death of their son, brother, and friend. Despite the sadness of their loss, they can be proud that the life and spirit of Joseph Iletto lives on. His death only confirms the urgency in which we as a community must take a strong stand against hate crimes and racism. The number of hate crimes in the U.S. has increased during the last five years, and the time is now to have dialogue and pass meaningful legislation to address this issue. As a first step, it is my hope that we can expedite passage this bill, to remember and honor the life of Joseph Iletto.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1964

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. DESIGNATION OF JOSEPH ILETO POST OFFICE.

The United States Post Office located at 14071 Peyton Drive in Chino Hills, California, shall be known and designated as the "Joseph Iletto Post Office".

#### SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the post office referred to in section 1 shall be deemed to be a reference to the Joseph Iletto Post Office.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1965. A bill to direct the Secretary of the Interior, the Bureau of Reclamation, to conduct a feasibility study on

the Jicarilla Apache Reservation in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

LEGISLATION AUTHORIZING THE BUREAU OF RECLAMATION TO CONDUCT A FEASIBILITY STUDY REGARDING WATER SUPPLY TO THE JICARILLA APACHE INDIAN RESERVATION IN NEW MEXICO

Mr. DOMENICI. Mr. President, I am pleased to be joined by Senator BINGAMAN in introducing legislation authorizing the Bureau of Reclamation to conduct a feasibility study regarding water supply on the Jicarilla Apache Indian Reservation in New Mexico. There are major deficiencies with regard to safe water supplies for residents of the Jicarilla Apache Reservation, since the federally owned municipal water system is severely dilapidated.

The United States has a trust responsibility to ensure that adequate and safe water supplies are available to meet the economic, environmental, water supply, and public health needs of the Jicarilla Apache Indian Reservation. Today, the House of Representatives passed identical legislation to help resolve this problem.

The Jicarilla Apache Tribe is a federally recognized Indian nation in northern New Mexico, with over 3,000 citizens. In the 1920s, the Bureau of Indian Affairs (BIA) constructed a water delivery system to serve federal facilities on the Reservation. In the 1960s, the system was extended to serve tribal facilities and members, but for the last 20 years this federal owned and operated water system has been deteriorating due to inadequate federal funding for regular maintenance and improvements.

No capital improvements have been made to the system for at least ten years. Currently, the system is not in compliance with Federal safe drinking water standards or pollutant discharge standards.

In October of 1988, the inlet system collapsed and caused a devastating five-day water outage on the Reservation. That catastrophe required emergency assistance from the National Guard. A home burned to the ground without necessary water to fight the fire. After that experience, the Tribe expended its own funds to make some repairs, and began a large-scale evaluation of the system. The Tribe has discovered serious problems with the system.

Line breaks are common and frequent, and existing supply facilities are near or at maximum capacity. The Jicarilla Apaches have had to ration water for the last seven summers.

According to a recent EPA report, the water system on the Jicarilla Reservation is the third worst system operating in a six-state region. In addition to being out of compliance with federal drinking water standards, the sewage plant has been operating without a federal discharge permit, exposing the BIA to fines up to \$25,000 per day.

Sewage lagoons are operating at 200% capacity, and wastewater spillage threatens not only the Jicarilla Apaches, but down-stream communities in New Mexico and beyond. The Jicarilla Apache Tribal Council has enacted a resolution declaring a state of emergency due to the continued operation of these unsafe water systems.

The Tribe has been forced to expend their own funds due to the serious health threats posed by the unsafe system. In addition to the severe health threats that these systems pose, their inadequate and unsafe condition has virtually suspended social and economic development on the Reservation.

The water deficiencies have forced the Tribe to place a moratorium on new projects, including housing, school, senior center, post office, and health care facility construction. These projects cannot be completed, even though many are already funded, because the existing infrastructure cannot support any further development. While the federal government is entirely responsible to maintain and operate the federal water systems which serve the Reservation, the BIA lacks the resources improve the system.

The water system on the Jicarilla Apache Reservation is one of only two or three such systems still being maintained by the BIA. The BIA does not even own equipment necessary for routine sewer cleaning. While the BIA has continued federal responsibility for these systems, BIA no longer budgets for water delivery systems.

In fact, Kevin Gover of the BIA referred the Tribe to the Bureau of Reclamation for assistance. The Bureau of Reclamation has the needed expertise to help, having experience in providing water to Native Americans through irrigation projects, as well as providing water supplies to other rural communities.

The Tribe wants to eventually own and operate the water system, and wishes to enter into a relationship with the Bureau of Reclamation for completion of rehabilitation of this project. This legislation will allow the Bureau of Reclamation to conduct a feasibility study to determine the best method for developing a safe and adequate municipal, rural, and industrial water supply for the residents of the Jicarilla Apache Indian Reservation in the State of New Mexico.

We want to help the Jicarilla Apaches end their water crisis, and secure congressional authorization for the necessary studies the Bureau of Reclamation has the expertise to conduct. I ask unanimous consent that our proposed legislation and the Jicarilla Apache Council Resolution be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1965

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. FINDINGS.

Congress finds that—

(1) there are major deficiencies with regard to adequate and sufficient water supplies available to resident of the Jicarilla Apache Reservation in the State of New Mexico.

(2) the existing municipal water system that serves the Jicarilla Apache Reservation is under the ownership and control of the Bureau of Indian Affairs and is outdated, dilapidated, and cannot adequately and safely serve the existing and future growth needs of the Jicarilla Apache Tribe;

(3) the federally owned municipal water system on the Jicarilla Apache Reservation has been unable to meet the minimum Federal water requirements necessary for discharging wastewater into a public watercourse and has been operating without a Federal discharge permit;

(4) the federally owned municipal water system that serves the Jicarilla Apache Reservation has been cited by the United States Environmental Protection Agency for violations of Federal safe drinking standards and poses a threat to public health and safety both on and off the Jicarilla Apache Reservation;

(5) the lack of reliable supplies of potable water impedes economic development and has detrimental effects on the quality of life and economic self-sufficiency of the Jicarilla Apache Tribe;

(6) due to the severe health threats and impediments to economic development, the Jicarilla Apache Tribe has authorized and expended \$4,500,000 of tribal funds for the repair and replacement of the municipal water system on the Jicarilla Apache Reservation; and

(7) the United States has a trust responsibility to ensure that adequate and safe water supplies are available to meet the economic, environmental, water supply, and public health needs of the Jicarilla Apache Indian Reservation.

#### SEC. 2. AUTHORIZATION.

(a) AUTHORIZATION.—Pursuant to reclamation laws, the Secretary of the Interior, through the Bureau of Reclamation and in consultation and cooperation with the Jicarilla Apache Tribe, shall conduct a feasibility study to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water supply for the residents of the Jicarilla Apache Indian Reservation in the State of New Mexico.

(b) REPORT.—Not later than 1 year after funds are appropriated to carry out this Act, the Secretary of the Interior shall transmit to Congress a report containing the results of the feasibility study required by subsection (a).

#### SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated \$200,000 to carry out this Act.

#### THE JICARILLA APACHE TRIBE—RESOLUTION No. 99-R-314-06

Whereas, the Jicarilla Apache Tribe is a federally recognized Indian tribe organized under Section 17 of the Indian Reorganization Act of 1934, 25 U.S.C. §476 (1988); and

Whereas, the inherent powers of the Jicarilla Apache Tribe are vested in the Jicarilla Apache Tribal Council pursuant to Article XI, Section 1 of the Revised Constitution of the Jicarilla Apache Tribe; and

Whereas, the Jicarilla Apache Tribal Council is authorized by Article XI, Section 1(d) of the Revised Constitution of the Jicarilla Apache Tribe to enact ordinances to promote the peace, safety, property, health and general welfare of the people of the Reservation and is authorized by Article X of the Revised Constitution to enact ordinances and resolutions on matters of permanent interest to

the members of the tribe and on matters relating to particular individuals, officials or circumstances; and

Whereas, the Jicarilla Apache Tribal Council has the power to authorize tribal officials to act on its behalf for regulatory and other purposes; and

Whereas, the lack of adequate and safe drinking water facilities on the Jicarilla Apache Reservation leads to serious health problems among tribal members and other residents of the Reservation, such as early loss of life and morbidity and diseases; and

Whereas, the current water treatment plant, water delivery infrastructure and sewage systems that serve the Jicarilla Apache Reservation are owned and operated by the United States, through the Jicarilla Agency Bureau of Indian Affairs ("BIA"); and

Whereas, the Federal Government has a trust responsibility to provide safe drinking water to the Jicarilla Apache people and the United States has failed to carry out this responsibility by not providing the BIA adequate resources to properly maintain and operate the water systems;

Whereas, in October 1998, due to the lack of adequate Federal resources to properly maintain and operate the water systems, the inlet system, which diverts water from the Navajo River, collapsed causing a catastrophic five-day water outage on the Jicarilla Apache Reservation, which necessitated emergency relief by the National Guard; and

Whereas, the Jicarilla Apache Tribe worked around the clock to restore water and expended tribal funds to do so, and as a result of the water outage, the Jicarilla Apache Tribe began investigating and evaluating the operation of the water systems and discovered numerous additional problems; and

Whereas, the water treatment plant, which treats water diverted from the Navajo River prior to being released for public consumption in Dulce, New Mexico, has been the subject of various notices of environmental non-compliance by the United States Environmental Protection Agency ("EPA");

Whereas, the sewage facilities that serve the Jicarilla Apache Reservation are not in compliance with Federal law and are operating without a federal discharge permit, which exposes the BIA to fines up to \$25,000 a day, and to meet the national requirements, a new waste water plant must be constructed; and

Whereas, although the Federal Government is responsible for maintaining and operating its own water systems that serve the Reservation, the Tribe has been forced to take action out of its own funds due to the serious health threats these deficient and unsafe systems have on the people within and near the Reservation; and

Whereas, based on the analysis and recommendation of the Tribe's engineers and consultants, the Tribal Council has authorized the construction of a new inlet system, waste water treatment plant, and sewage facilities and the upgrade and rehabilitation of the water delivery infrastructure; and

Whereas, Congress amended the Safe Drinking Water Act, in 1996 and found, among other things, that:

(1) safe drinking water is essential to the protection of public health;

(2) because the requirements of the Safe Drinking Water Act (42 U.S.C. 300f et seq.) now exceed the financial and technical capacity of some public water systems, especially many small public water systems, the Federal Government needs to provide assistance to communities to help the communities meet Federal drinking water requirements;

(3) more effective protection of public health requires prevention of drinking water

contamination through well-trained system operators, water systems with adequate managerial, technical and financial capacity and enhanced protection of source waters of public water systems;

(4) compliance with the requirements of the Safe Drinking Water Act continues to be a concern at public water systems experiencing technical and financial limitations and Federal, State and local governments need more resources and more effective authority to attain the objectives of the Safe Drinking Water Act;

(5) Federal health services to maintain and improve the health of the Indians are consistent with and required by the Federal Government's trust relationship with the American Indian people;

Whereas, the repair and replacement authorization by the Tribal Council is consistent with the Congressional purposes of ensuring safe drinking water to the public; and

Whereas, Indian tribes are recognized as domestic nations under the protection of the United States Government and possessed with the inherent powers of government; and

Whereas, pursuant to the Federal trust relationship between the Federal government and Indian tribes arising from the United States Constitution, United States Supreme Court caselaw, numerous treaties, statutes, and regulations, the Federal government had fiduciary duties to Indian tribes to protect tribal self-government and to provide and ensure adequate and safe drinking water; and

Whereas, in accordance with the Federal policy of Indian Self-Determination, the Federal government has pledged to assist Indian tribes in making reservations permanent homes from Indian people; and

Whereas, The Federal Indian policy of Self-Determination and the Federal trust responsibility to Indian tribes requires that the Federal government conduct government-to-government consultations with Indian tribes on matters affecting tribal interests and to promote tribal economic development, tribal governments, tribal self-sufficiency, which includes proper and adequate and safe drinking water facilities.

Now, Therefore, Be It Resolved, by the Tribal Council of the Jicarilla Apache Tribe that the Tribal Council hereby declares that the Jicarilla Apache Reservation is in a state of critical emergency due to the continued operation of the unsafe water systems that serve the Jicarilla Apache Reservation.

Be It Further Resolved, by the Tribal Council of the Jicarilla Apache Tribe that the Tribal Council, hereby authorizes the Vice-President and his staff to do all acts immediate and necessary to address this emergency, including but not limited to, executing contracts, consulting on a government-to-government basis with Congressional members and the Executive Branch, including the Federal agencies and the White House and lobbying for congressional appropriations.

And Be It Further Resolved, by the Tribal Council of the Jicarilla Apache Tribe that the Jicarilla Apache Tribe calls upon the United States Congress and the United States Department of Interior's Bureau of Indian Affairs and Bureau of Reclamation, the Department of Health and Human Services and the United States Environmental Protection Agency, to exercise their Federal Trust Responsibility and work with the Jicarilla Apache Tribe on a government-to-government basis to address this emergency.

By Mr. COCHRAN (for himself and Mr. LOTT):

S. 1967. A bill to make technical corrections to the status of certain land

held in trust for the Mississippi Band of Choctaw Indians, to take certain land into trust for that Band, and for other purposes; to the Committee on Indian Affairs.

MISSISSIPPI BAND OF CHOCTAW INDIANS

• Mr. COCHRAN. Mr. President, today I am introducing a bill to make technical corrections to the status of certain land held in trust for the Mississippi Band of Choctaw Indians, and to take certain land into trust for the Band.

Mr. President, the lands involved in this bill are lands currently owned by the tribe. Over the last 20 years, the tribe has attempted to transfer the land to reservation land, through the regular processes of the Department of Interior and the Bureau of Indian Affairs. The land transfer applications have the support of the State of Mississippi and the local neighboring governments.

Countless times over the years, the tribe has been told by the Department that land transfer applications have been lost and that action would occur soon.

Housing, a school and a medical clinic are among the construction plans that are detained because of the inaction by the Department and BIA. Mr. President, this tribe is simply out of time. The school waiting to be replaced has over two pages of safety violations from the BIA. The medical clinic will not pass its next inspection. Thousands of Mississippi Choctaw citizens have substandard living conditions because of the lack of available housing.

Mr. President, the Choctaws are held up as the best example of self determination. Yet, the federal government seems determined to throw obstacles in the course of their success. The history of these land acquisition applications and the treatment of the tribe is intolerable.

The Congressional Budget Office has reviewed the bill and advises it has no budgetary impact. I urge the Senate to pass this bill. •

By Mr. CRAIG (for himself, Mr. MURKOWSKI, and Mr. THOMAS):

S. 1969. A bill to provide for improved management of, and increases accountability for, outfitted activities by which the public gains access to and occupancy and use of Federal land, and for other purposes; to the Committee on Energy and Natural Resources.

THE OUTFITTER POLICY ACT OF 1999

Mr. CRAIG. Mr. President, I am pleased to introduce today in conjunction with my colleagues Senator MURKOWSKI and Senator THOMAS the Outfitter Policy Act of 1999.

This legislation is very similar to legislation I introduced in the past congress. As that legislation did, this bill would put into law many of the management practices by which federal land management agencies have successfully managed the outfitter and guide industry on National Forests, National Parks and other federal lands over many decades.

The bill recognizes that many Americans want and seek out the skills and experience of commercial outfitters and guides to help them enjoy a safe and pleasant journey through our forests and deserts and over the rivers and lakes that are the spectacular destinations for many visitors to our federal lands.

The Outfitter Policy Act would assure the public continued opportunities for reasonable and safe access to the special areas found throughout our public lands. It establishes high standards that will be met for the health and welfare of visitors who choose outfitted services. It will help guarantee that quality professional services. It will help guarantee that will be available for their recreational and educational experiences on federal land.

This legislation is needed because the management of outfitting and guiding services by this Administration had created problems that threaten to destabilize many of these typically small, independent outfitter and guide businesses. In addressing these problems, this legislation relies heavily on practices that have historically worked well for outfitters, visitors, and other users groups, as well as for federal land managers in the field. When the bill is enacted, it will assure that these past levels of service are continued and enhanced.

Previous hearings and discussions on prior versions of this legislation helped to refine the bill I am introducing today. This process provided the intended opportunity for discussion. It allowed for the examination of the historical practices that have offered consistent, reliable outfitter services to the public. The legislation I am now introducing is a result of that process.

I look forward to considering this legislation in the coming session of the 106th Congress.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1969

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Outfitter Policy Act of 1999".

#### SEC. 2. FINDINGS.

Congress finds that—

(1) the experience, skills, trained staff, and investment in equipment that are provided by authorized outfitters are necessary to provide access to Federal land to members of the public that need or desire commercial outfitted activities to facilitate their use and enjoyment of recreational or educational opportunities on Federal land;

(2) such activities constitute an important contribution toward meeting the recreational and educational objectives of resource management plans approved and administered by agencies of the Department of Agriculture and the Department of the Interior;

(3) an effective relationship between those agencies and authorized outfitters requires

implementation of agency policies and programs that provide for—

(A) a reasonable opportunity for an authorized outfitter to realize a profit;

(B) a fair and reasonable return to the United States through appropriate fees;

(C) renewal of outfitter permits based on a performance evaluation system that rewards outfitters that meet required performance standards and discontinues outfitters that fail to meet those standards; and

(D) transfer of an outfitter permit to the qualified purchaser of the operation of an authorized outfitter, an heir or assign, or another qualified person or entity; and

(4) the provision of opportunities for outfitted visitors to Federal land to engage in fishing and hunting is best served by continued recognition that the States retain primary authority over the taking of fish and wildlife on Federal land.

#### SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to establish terms and conditions of access to, and occupancy and use of, Federal land by visitors who require or desire the assistance of an authorized outfitter; and

(2) to establish a stable regulatory climate that encourages a qualified person or entity to provide, and to continue to invest in the ability to provide, outfitted visitors with access to, and occupancy and use of, Federal land.

#### SEC. 4. DEFINITIONS.

In this Act:

(1) **ACTUAL USE.**—The term "actual use" means the portion of a principal allocation of outfitter use that an authorized outfitter uses in conducting commercial outfitted activities during a period, for a type of use, for a location, or in terms of another measurement of the term or outfitted activities covered by an outfitter permit.

(2) **ALLOCATION OF USE.**—

(A) **IN GENERAL.**—The term "allocation of use" means a method or measurement of access that—

(i) is granted by the Secretary to an authorized outfitter for the purpose of facilitating the occupancy and use of Federal land by an outfitted visitor;

(ii) takes the form of—

(I) an amount or type of commercial outfitted activity resulting from an apportionment of the total recreation capacity of a resource area; or

(II) in the case of a resource area for which recreation capacity has not been apportioned, a type of commercial outfitted activity conducted in a manner that is not inconsistent with or incompatible with an approved resource management plan; and

(iii) is calibrated in terms of amount of use, type of use, or location of a commercial outfitted activity, including user days or portions of user days, seasons or other periods of operation, launch dates, assigned camps, or other formulations of the type or amount of authorized activity.

(B) **INCLUSION.**—The term "allocation of use" includes the designation of a geographic area, zone, or district in which a limited number of authorized outfitters are authorized to operate.

(3) **AUTHORIZED OUTFITTER.**—

(A) **IN GENERAL.**—The term "authorized outfitter" means a person that conducts a commercial outfitted activity on Federal land under an outfitter authorization.

(B) **INCLUSION.**—The term "authorized outfitter" includes an outfitter that conducts a commercial outfitted activity on Federal land under an outfitter authorization awarded under an agreement between the Secretary and a State or local government that provides for the regulation by a State or local agency of commercial outfitted activities on Federal land.

(4) **COMMERCIAL OUTFITTED ACTIVITY.**—The term "commercial outfitted activity" means an authorized outfitted activity—

(A) that is available to the public;

(B) that is conducted under the direction of paid staff; and

(C) for which an outfitted visitor is required to pay more than shared expenses (including payment to an authorized outfitter that is a nonprofit organization).

(5) **FEDERAL AGENCY.**—The term "Federal agency" means—

(A) the Forest Service;

(B) the Bureau of Land Management;

(C) the United States Fish and Wildlife Service; and

(D) the Bureau of Reclamation.

(6) **FEDERAL LAND.**—

(A) **IN GENERAL.**—The term "Federal land" means all land and interests in land administered by a Federal agency.

(B) **EXCLUSION.**—The term "Federal land" does not include—

(i) land held in trust by the United States for the benefit of an Indian tribe or individual; or

(ii) land held by an Indian tribe or individual subject to a restriction by the United States against alienation.

(7) **INSTITUTIONAL RECREATION PROGRAM.**—The term "institutional recreation program" means a program of recreational activities on Federal land that may include the conduct of an outfitted activity on Federal land sponsored and guided by—

(A) an institution with a membership or limited constituency, such as a religious, conservation, youth, fraternal, or social organization; or

(B) an educational institution, such as a college or university.

(8) **LIMITED OUTFITTER AUTHORIZATION.**—The term "limited outfitter authorization" means an outfitter authorization under section 6(f).

(9) **LIVERY.**—The term "livery" means the dropping off or picking up of visitors, supplies, or equipment on Federal land.

(10) **OUTFITTED ACTIVITY.**—

(A) **IN GENERAL.**—The term "outfitted activity" means an activity—

(i) such as outfitting, guiding, supervision, education, interpretation, skills training, assistance, or livery operation conducted for a member of the public in an outdoor environment; and

(ii) that uses the recreational, natural, historical, or cultural resources of Federal land.

(B) **EXCLUSION.**—The term "outfitted activity" does not include a service provided under the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b).

(11) **OUTFITTED VISITOR.**—The term "outfitted visitor" means a member of the public that relies on an authorized outfitter for access to and occupancy and use of Federal land.

(12) **OUTFITTER.**—The term "outfitter" means a person that conducts a commercial outfitted activity, including a person that, by local custom or tradition, is known as a "guide".

(13) **OUTFITTER AUTHORIZATION.**—The term "outfitter authorization" means—

(A) an outfitter permit; or

(B) a limited outfitter authorization.

(14) **OUTFITTER PERMIT.**—The term "outfitter permit" means an outfitter permit under section 6.

(15) **PRINCIPAL ALLOCATION OF OUTFITTER USE.**—The term "principal allocation of outfitter use" means a commitment by the Secretary in an outfitter permit for an allocation of use to an authorized outfitter in accordance with section 9.

(16) **RESOURCE AREA.**—The term "resource area" means a management unit that is described by or contained within the boundaries of—

- (A) a national forest;
- (B) an area of public land;
- (C) a wildlife refuge;
- (D) a congressionally designated area;
- (E) a hunting zone or district; or
- (F) any other Federal planning unit (including an area in which outfitted activities are regulated by more than 1 Federal agency).

(17) **SECRETARY.**—The term "Secretary" means—

(A) with respect to Federal land administered by the Forest Service, the Secretary of Agriculture, acting through the Chief of the Forest Service or a designee;

(B) with respect to Federal land administered by the Bureau of Land Management, the Secretary of the Interior, acting through the Director of the Bureau of Land Management or a designee;

(C) with respect to Federal land administered by the United States Fish and Wildlife Service, the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service or a designee; and

(D) with respect to Federal land administered by the Bureau of Reclamation, the Secretary of the Interior, acting through the Commissioner of Reclamation or a designee.

(18) **TEMPORARY ALLOCATION OF USE.**—The term "temporary allocation of use" means an allocation of use to an authorized outfitter in accordance with section 9.

#### SEC. 5. NONOUTFITTER USE AND ENJOYMENT.

Nothing in this Act enlarges or diminishes the right or privilege of occupancy and use of Federal land under any applicable law (including planning process rules and any administrative allocation), by a commercial or noncommercial individual or entity that is not an authorized outfitter or outfitted visitor.

#### SEC. 6. OUTFITTER AUTHORIZATIONS.

(a) **IN GENERAL.**—

(1) **PROHIBITION.**—No person or entity, except an authorized outfitter, shall conduct a commercial outfitted activity on Federal land.

(2) **CONDUCT OF OUTFITTED ACTIVITIES.**—An authorized outfitter shall not conduct an outfitted activity on Federal land except in accordance with an outfitter authorization.

(3) **SPECIAL RULE FOR ALASKA.**—With respect to a commercial outfitted activity conducted in the State of Alaska, the Secretary shall not establish or impose a limitation on access by an authorized outfitter that is inconsistent with the access ensured under subsections (a) and (b) of section 1110 of the Alaska National Interests Lands Conservation Act (16 U.S.C. 3170).

(b) **TERMS AND CONDITIONS.**—An outfitter authorization shall specify—

(1) the rights and obligations of the authorized outfitter and the Secretary; and

(2) other terms and conditions of the authorization.

(c) **CRITERIA FOR AWARD OF AN OUTFITTER PERMIT.**—The Secretary shall establish criteria for award of an outfitter permit that—

(1) identify skilled, experienced, and financially capable persons or entities with knowledge of the resource area to offer and conduct commercial outfitted activities;

(2) provide a stable regulatory climate in accordance with this Act and other law (including regulations) that encourages a qualified person or entity to provide, and to continue to invest in the ability to provide, commercial outfitted activities;

(3) offer a reasonable opportunity for an authorized outfitter to realize a profit; and

(4) subordinate considerations of revenue to the United States to the objectives of—

(A) providing recreational or educational opportunities for the outfitted visitor;

(B) providing for the health and welfare of the public; and

(C) conserving resources.

(d) **AWARD.**—

(1) **IN GENERAL.**—The Secretary may award an outfitter permit under this Act if—

(A) the commercial outfitted activity to be authorized is not inconsistent with or incompatible with an approved resource management plan applicable to the resource area in which the commercial outfitted activity is to be conducted; and

(B) the authorized outfitter meets the criteria established under subsection (c)(1).

(2) **USE OF COMPETITIVE PROCESS.**—

(A) **IN GENERAL.**—Except as otherwise provided by this Act, the Secretary shall use a competitive process to select an authorized outfitter to which an outfitter permit is to be awarded.

(B) **EXCEPTION FOR CERTAIN ACTIVITIES.**—The Secretary may award an outfitter permit to an applicant without conducting a competitive selection process if the Secretary determines that—

(i) the applicant meets criteria established by the Secretary under subsection (c); and

(ii) there is no competitive interest in the commercial outfitted activity to be conducted.

(C) **EXCEPTION FOR RENEWALS AND TRANSFERS.**—The Secretary shall award an outfitter permit to an applicant without conducting a competitive selection process if the authorization is a renewal or transfer of an existing outfitter permit under section 11 or 12.

(e) **PROVISIONS OF OUTFITTER PERMITS.**—

(1) **IN GENERAL.**—An outfitter permit shall provide for—

(A) the health and welfare of the public;

(B) conservation of resource values;

(C) a fair and reasonable return to the United States through an authorization fee in accordance with section 7;

(D) a term of 10 years;

(E) the obligation of an authorized outfitter to defend and indemnify the United States in accordance with section 8;

(F) a principal allocation of outfitter use, and, if appropriate, a temporary allocation of use, in accordance with section 9;

(G) a plan to conduct performance evaluations in accordance with section 10;

(H) renewal or termination of an outfitter permit in accordance with section 11;

(I) transfer of an outfitter permit in accordance with section 12;

(J) a means of modifying an outfitter permit to reflect material changes from the terms and conditions specified in the outfitter permit;

(K) notice of a right of appeal and judicial review in accordance with section 14; and

(L) such other terms and conditions as the Secretary may require.

(2) **EXTENSIONS.**—The Secretary may award not more than 3 temporary 1-year extensions of an outfitter permit, unless the Secretary determines that extraordinary circumstances warrant additional extensions.

(f) **LIMITED OUTFITTER AUTHORIZATIONS.**—

(1) **IN GENERAL.**—The Secretary may issue a limited outfitter authorization to an applicant for incidental occupancy and use of Federal land for the purpose of conducting a commercial outfitted activity on a limited basis.

(2) **TERM.**—A limited outfitter authorization shall have a term of not to exceed 2 years.

(3) **REISSUANCE OR RENEWAL.**—A limited outfitter authorization may be reissued or renewed at the discretion of the Secretary.

#### SEC. 7. AUTHORIZATION FEES.

(a) **AMOUNT OF FEE.**—

(1) **IN GENERAL.**—An outfitter permit shall provide for payment to the United States of a fair and reasonable authorization fee, as determined by the Secretary.

(2) **DETERMINATION OF AMOUNT OF FEE.**—In determining the amount of an authorization fee, the Secretary shall take into consideration—

(A) the obligations of the outfitter under the outfitter permit;

(B) the provision of a reasonable opportunity for net profit in relation to capital invested; and

(C) economic conditions.

(b) **ESTABLISHMENT OF AMOUNT APPLICABLE TO AN OUTFITTER PERMIT.**—

(1) **IN GENERAL.**—The amount of the authorization fee paid to the United States for the term of an outfitter permit shall be specified in the outfitter permit.

(2) **REQUIREMENTS.**—The amount of the authorization fee—

(A)(i) shall be expressed as—

(I) a simple charge per day of actual use; or

(II) an annual or reasonable flat fee;

(ii) if calculated as a percentage of revenue, shall be determined based on adjusted gross receipts; or

(iii) with respect to a commercial outfitted activity conducted in the State of Alaska, shall be based on a simple charge per user day;

(B) shall be subordinate to the objectives of—

(i) conserving resources;

(ii) protecting the health and welfare of the public; and

(iii) providing reliable, consistent performance in conducting outfitted activities; and

(C) shall be required to be paid by an authorized outfitter to the United States on a reasonable schedule during the operating season.

(3) **ADJUSTED GROSS RECEIPTS.**—For the purpose of paragraph (2)(A)(ii), the Secretary shall—

(A) take into consideration revenue from the gross receipts of the authorized outfitter from commercial outfitted activities conducted on Federal land; and

(B) exclude from consideration any revenue that is derived from—

(i) fees paid by the authorized outfitter to any unit of Federal, State, or local government for—

(I) hunting or fishing licenses;

(II) entrance or recreation fees; or

(III) other purposes (other than commercial outfitted activities conducted on Federal land);

(ii) goods and services sold to outfitted visitors that are not within the scope of authorized outfitter activities conducted on Federal land; or

(iii) operations on non-Federal land.

(4) **SUBSTANTIALLY SIMILAR SERVICES IN A SPECIFIC GEOGRAPHIC AREA.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), if more than 1 outfitter permit is awarded to conduct the same or similar commercial outfitted activities in the same resource area, the Secretary shall establish an identical fee for all such outfitter permits.

(B) **EXCEPTION.**—The terms and conditions of an existing outfitter permit shall not be subject to modification or open to renegotiation by the Secretary because of the award of a new outfitter permit at the same resource area for the same or similar commercial outfitted activities.

(5) **ACTUAL USE.**—

(A) **IN GENERAL.**—For the purpose of calculating an authorization fee for actual use under clauses (ii) and (iii) of paragraph (2)(A), the sum of authorization fees proportionately assessed per outfitted visitor in a single calendar day for commercial outfitted

activities at more than 1 resource area shall be not greater than the equivalent fee charged for 1 full user day.

(B) RECONSIDERATION OF FEE.—The authorization fee may be reconsidered during the term of the outfitter permit in accordance with paragraph (6) or section 9(c)(3) at the request of the Secretary or the authorized outfitter.

(6) ADJUSTMENT OF FEES.—The amount of an authorization fee—

(A) shall be determined as of the date of the outfitter permit; and

(B) may be modified to reflect—

(i) changes relating to the terms and conditions of the outfitter permit, including 1 or more outfitter permits described in paragraph (5);

(ii) extraordinary unanticipated changes affecting operating conditions, such as natural disasters, economic conditions, or other material adverse changes from the terms and conditions specified in the outfitter permit;

(iii) changes affecting operating or economic conditions determined by other governing entities, such as the availability of State fish or game licenses; or

(iv) the imposition of new or higher fees assessed under other law.

(c) ESTABLISHMENT OF AMOUNT APPLICABLE TO A LIMITED OUTFITTER AUTHORIZATION.—The Secretary shall determine the amount of an authorization fee, if any, under a limited outfitter authorization.

#### SEC. 8. LIABILITY AND INDEMNIFICATION.

(a) IN GENERAL.—An authorized outfitter shall defend and indemnify the United States for costs or expenses associated with injury, death, or damage to any person or property caused by the authorized outfitter's negligence, gross negligence, or willful and wanton disregard for persons or property arising directly out of the authorized outfitter's conduct of a commercial outfitted activity under an outfitter authorization.

(b) NO LIABILITY.—An authorized outfitter—

(1) shall have no responsibility to defend or indemnify the United States, its agents, employees, or contractors, or third parties for costs or expenses associated with injury, death, or damage to any person or property caused by the acts, omissions, negligence, gross negligence, or willful and wanton misconduct of the United States, its agents, employees, or contractors, or third parties;

(2) shall not incur liability of any kind to the United States, its agents, employees, or contractors, or third parties as a result of the award of an outfitter authorization or as a result of the conduct of a commercial outfitted activity under an outfitter authorization absent a finding by a court of competent jurisdiction of negligence, gross negligence, or willful and wanton disregard for persons or property on the part of the authorized outfitter; and

(3) shall have no responsibility to defend or indemnify the United States, its agents, employees, or contractors, or third parties for costs or expenses associated with injury, death, or damage to any person or property resulting from the inherent risks of the commercial outfitted activity conducted by the authorized outfitter under the outfitter authorization or the inherent risks present on Federal land.

(c) AGREEMENTS.—An authorized outfitter may enter into contracts or other agreements with outfitted visitors, including agreements providing for release, waiver, indemnification, acknowledgment of risk, or allocation of risk.

#### SEC. 9. ALLOCATION OF USE.

(a) IN GENERAL.—In a manner that is not inconsistent with or incompatible with an approved resource management plan applica-

ble to the resource area in which a commercial outfitted activity occurs, the Secretary—

(1) shall provide a principal allocation of outfitter use to an authorized outfitter under an outfitter permit; and

(2) may provide a temporary allocation of use to an authorized outfitter under an outfitter permit.

(b) RENEWALS, TRANSFERS, AND EXTENSIONS.—The Secretary shall provide a principal allocation of outfitter use to an authorized outfitter that—

(1) in the case of the renewal of an outfitter permit, is not inconsistent with or incompatible with the terms and conditions of an approved resource management plan applicable to the resource area in which the commercial outfitted activity occurs; or

(2) in the case of the transfer or temporary extension of an outfitter permit, is the same amount of principal allocation of outfitter use provided to the current authorized outfitter.

(c) WAIVER.—

(1) IN GENERAL.—At the request of an authorized outfitter, the Secretary may waive any obligation of the authorized outfitter to use all or part of the amount of allocation of use provided under the outfitter permit, if the request is made in sufficient time to allow the Secretary to temporarily reallocate the unused portion of the allocation of use in that season or calendar year.

(2) RECLAIMING OF ALLOCATION OF USE.—Unless the Secretary has reallocated the unused portion of an allocation of use in accordance with paragraph (1), the authorized outfitter may reclaim any part of the unused portion in that season or calendar year.

(3) NO FEE OBLIGATION.—An outfitter permit fee may not be charged for any amount of allocation of use subject to a waiver under paragraph (1).

(d) ADJUSTMENT TO ALLOCATION OF USE.—The Secretary—

(1) may adjust an allocation of use assigned to an authorized outfitter to reflect—

(A) material change arising from approval of a change in the resource management plan for the area of operation; or

(B) requirements arising under other law; and

(2) shall provide an authorized outfitter with documentation supporting the basis for any adjustment in the principal allocation of outfitter use, including new terms and conditions that result from the adjustment.

(e) TEMPORARY ALLOCATION OF USE.—

(1) IN GENERAL.—A temporary allocation of use may be provided to an authorized outfitter at the discretion of the Secretary for a period not to exceed 2 years.

(2) RENEWALS, TRANSFERS, AND EXTENSIONS.—A temporary allocation of use may be renewed, transferred, or extended at the discretion of the Secretary.

#### SEC. 10. EVALUATION OF PERFORMANCE UNDER OUTFITTER PERMITS.

(a) EVALUATION PROCESS.—

(1) IN GENERAL.—The Secretary shall develop a process for annual evaluation of the performance of an authorized outfitter in conducting a commercial outfitted activity under an outfitter permit.

(2) EVALUATION CRITERIA.—Criteria to be used by the Secretary to evaluate the performance of an authorized outfitter shall—

(A) be objective, measurable, and reasonably attainable; and

(B) include—

(i) standards generally applicable to all commercial outfitted activities;

(ii) standards specific to a resource area, an individual outfitter operation, or a type of commercial outfitted activity; and

(iii) such other terms and conditions of the outfitter permit as are agreed to by the Sec-

retary and the authorized outfitter as measurements of performance.

(3) SPECIAL RULE FOR ALASKA.—With respect to commercial outfitted activities conducted in the State of Alaska, objectives relating to conservation of natural resources and the taking of fish and game shall not be inconsistent with the laws (including regulations) of the Alaska Department of Fish and Game.

(4) REQUIREMENTS.—In evaluating the level of performance of an authorized outfitter, the Secretary shall—

(A) appropriately account for factors beyond the control of the authorized outfitter, including conditions described in section 7(b)(6)(B);

(B) ensure that the effect of any performance deficiency reflected by the performance rating is proportionate to the severity of the deficiency, including any harm that may have resulted from the deficiency; and

(C) allow additional credit to be earned for elements of performance that exceed the requirements of the outfitter permit.

(b) LEVELS OF PERFORMANCE.—The Secretary shall define 3 levels of performance, as follows:

(1) Good, indicating a level of performance that fulfills the terms and conditions of the outfitter permit.

(2) Marginal, indicating a level of performance that, if not corrected, will result in an unsatisfactory level of performance.

(3) Unsatisfactory, indicating a level of performance that fails to fulfill the terms and conditions of the outfitter permit.

(c) PERFORMANCE EVALUATION.—

(1) EVALUATION SYSTEM.—The Secretary shall establish a performance evaluation system that assures the public of continued availability of dependable commercial outfitted activities and discontinues any authorized outfitter that fails to meet the required standards.

(2) PROCEDURE.—An authorized outfitter shall be entitled—

(A) to be present, or represented, at inspections of operations or facilities, which inspections shall be limited to the operations and facilities of the authorized outfitter located on Federal land;

(B) to receive written notice of any conduct or condition that, if not corrected, might lead to a performance evaluation of marginal or unsatisfactory, which notice shall include an explanation of needed corrections and provide a reasonable period of time in which the corrections may be made without penalty; and

(C) to receive written notice of the results of the performance evaluation not later than 30 days after the conclusion of the authorized outfitter's operating season, including the level of performance and the status of corrections that may have been required.

(d) MARGINAL PERFORMANCE.—If an authorized outfitter's level of performance for a year is determined to be marginal, and the authorized outfitter fails to complete the corrections within the time period specified under subsection (c)(2)(B), the level of performance shall be determined to be unsatisfactory for the year.

(e) DETERMINATION OF ELIGIBILITY FOR RENEWAL.—

(1) IN GENERAL.—The results of all annual performance evaluations of an authorized outfitter shall be reviewed by the Secretary in the year preceding the year in which the outfitter permit expires to determine whether the authorized outfitter's overall performance during the term has met the requirements for renewal under section 11.

(2) FAILURE TO EVALUATE.—If, in any year of the term of an outfitter permit, the Secretary fails to evaluate the performance of the authorized outfitter by the date that is



60 days after the conclusion of the authorized outfitter's operating season, the performance of the authorized outfitter in that year shall be considered to have been good.

(3) NOTICE.—Not later than 60 days after the end of the year preceding the year in which an outfitter permit expires, the Secretary shall provide the authorized outfitter with the cumulative results of performance evaluations conducted under this subsection during the term of the outfitter permit.

(4) UNSATISFACTORY PERFORMANCE IN FINAL YEAR.—If an authorized outfitter receives an unsatisfactory performance rating under subsection (d) in the final year of the term of an outfitter permit, the review and determination of eligibility for renewal of the outfitter permit under paragraph (1) shall be revised to reflect that result.

#### SEC. 11. RENEWAL OR TERMINATION OF OUTFITTER PERMITS.

(a) RENEWAL AT EXPIRATION OF TERM.—

(1) IN GENERAL.—On expiration of the term of an outfitter authorization, the Secretary shall renew the authorization in accordance with paragraph (2).

(2) DETERMINATION BASED ON ANNUAL PERFORMANCE RATING.—The Secretary shall renew an outfitter authorization under paragraph (1) at the request of the authorized outfitter and subject to the requirements of this Act if the Secretary determines that the authorized outfitter has received not more than 1 unsatisfactory annual performance rating under section 10 during the term of the outfitter permit.

(b) TERMINATION.—An outfitter permit may be terminated only if the Secretary determines that—

(1) the authorized outfitter has failed to correct a condition for which the authorized outfitter received notice under section 10(c)(2)(B) and the condition is considered by the Secretary to be significant with respect to the health and welfare of outfitted visitors or the conservation of resources;

(2) the authorized outfitter is repeatedly in arrears in the payment of fees under section 7; or

(3) the authorized outfitter's conduct demonstrates repeated and willful disregard for—

(A) the health and welfare of outfitted visitors; or

(B) the conservation of resources on which the commercial outfitted activities are conducted.

#### SEC. 12. TRANSFERABILITY OF OUTFITTER PERMITS.

(a) IN GENERAL.—An outfitter permit shall not be transferred (including assigned or otherwise conveyed or pledged) by the authorized outfitter without prior written notification to, and approval by, the Secretary.

(b) APPROVAL.—

(1) IN GENERAL.—The Secretary shall approve a transfer of an outfitter permit unless the Secretary determines that the transferee does not have sufficient professional, financial, and other resources or business experience to be capable of performing under the outfitter permit for the remainder of the term of the outfitter permit.

(2) QUALIFIED TRANSFEREES.—Subject to section 6(d)(1), the Secretary shall approve a transfer of an outfitter permit—

(A) to a purchaser of the operation of the authorized outfitter;

(B) at the request of the authorized outfitter, to an assignee, partner, or stockholder or other owner of an interest in the operation of the authorized outfitter; or

(C) on the death of the authorized outfitter, to an heir or assign.

(c) NO MODIFICATION AS CONDITION OF APPROVAL.—The terms and conditions of an outfitter permit shall not be subject to modification or open to renegotiation by the Sec-

retary because of a transfer described in subsection (a), unless the terms and conditions of the outfitter permit that is proposed to be transferred have become inconsistent or incompatible with an approved resource management plan for the resource area as a result of a modification to the plan.

(d) CONSIDERATION PERIOD.—

(1) THRESHOLD FOR AUTOMATIC APPROVAL.—Subject to paragraph (2), if the Secretary fails to approve or disapprove the transfer of an outfitter permit within 90 days after the date of receipt of an application containing the information required with respect to the transfer, the transfer shall be deemed to have been approved.

(2) EXTENSION.—The Secretary and the authorized outfitter making application for transfer of an outfitter permit may agree to extend the period for consideration of the application.

(e) CONTINUANCE OF OUTFITTER PERMIT.—If the transfer of an outfitter permit is not approved by the Secretary or if the transfer is not subsequently made, the outfitter permit shall remain in effect.

#### SEC. 13. RECORDKEEPING REQUIREMENTS.

(a) IN GENERAL.—An authorized outfitter shall keep such reasonable records as the Secretary may require to enable the Secretary to determine that all the terms of the outfitter authorization have been and are being carried out.

(b) BURDEN ON AUTHORIZED OUTFITTER.—The recordkeeping requirements established by the Secretary shall incorporate simplified procedures that do not impose an undue burden on an authorized outfitter.

(c) ACCESS TO RECORDS.—The Secretary, or an authorized representative of the Secretary, shall, until the end of the fifth calendar year beginning after the end of the business year of an authorized outfitter, have access to and the right to examine any books, papers, documents, and records of the authorized outfitter relating to each outfitter authorization held by the authorized outfitter during the business year.

#### SEC. 14. APPEALS AND JUDICIAL REVIEW.

(a) APPEALS PROCEDURE.—The Secretary shall by regulation—

(1) grant an authorized outfitter full access to administrative remedies under the Secretary's authority at the time of an appeal; and

(2) establish an expedited procedure for consideration of appeals of Federal agency decisions to deny, suspend, fail to renew, or terminate an outfitter permit.

(b) JUDICIAL REVIEW.—An authorized outfitter that is adversely affected by a final decision of the Secretary under this Act may commence a civil action in United States district court.

#### SEC. 15. INSTITUTIONAL RECREATION PROGRAMS.

(a) IN GENERAL.—The Secretary shall manage the occupancy and use of Federal land by institutional recreation programs that conduct outfitted activities under this Act.

(b) REQUIREMENTS.—In managing an institutional recreation program authorized under this Act, the Secretary shall require that the program—

(1) operate in a manner that is not inconsistent with or incompatible with an approved resource management plan applicable to the resource area in which the outfitted activity is conducted;

(2) provide for the health and welfare of members of the sponsoring organization or affiliated participants; and

(3) ensure the conservation of resources.

#### SEC. 16. CONSISTENCY WITH OTHER LAW AND RIGHTS.

(a) CONSISTENCY WITH OTHER LAW.—Each program of outfitted activities carried out

on Federal land shall be consistent with the mission of the administering Federal agency and all laws (including regulations) applicable to the outfitted activities.

(b) CONSISTENCY WITH RIGHTS OF UNITED STATES.—Nothing in this Act limits or restricts any right, title, or interest of the United States in or to any land or resource.

#### SEC. 17. REGULATIONS.

Not later than 2 years after the date of enactment of this Act, the Secretary shall promulgate such regulations as are appropriate to carry out this Act.

#### SEC. 18. RELATIONSHIP TO OTHER LAW.

(a) NATIONAL PARK OMNIBUS MANAGEMENT ACT OF 1998.—Nothing in this Act supersedes or otherwise affects any provision of title IV of the National Park Omnibus Management Act of 1998 (16 U.S.C. 5951 et seq.).

(b) STATE OUTFITTER LICENSING LAW.—This Act does not preempt any outfitter or guide licensing law (including any regulation) of any State or territory.

#### SEC. 19. TRANSITION PROVISIONS.

(a) IN GENERAL.—

(1) OUTFITTERS WITH SATISFACTORY RATINGS.—An outfitter that holds a permit, contract, or other authorization to conduct commercial outfitted activities (or an extension of such a permit, contract, or other authorization) in effect on the date of enactment of this Act shall be entitled, on request or on expiration of the authorization, to the issuance of an outfitter permit under this Act if a recent performance evaluation determined that the outfitter's aggregate performance under the permit, contract, or other authorization was good or was the equivalent of good, satisfactory, or acceptable under a rating system in use before the date of enactment of this Act.

(2) OUTFITTERS WITH NO RATINGS.—For the purpose of paragraph (1), if no recent performance evaluation exists with respect to an outfitter, the outfitter's aggregate performance under the permit, contract, or other authorization shall be deemed to be good.

(b) EFFECT OF ISSUANCE OF OUTFITTER PERMIT.—The issuance of an outfitter permit under subsection (a) shall not adversely affect any right or obligation that existed under the permit, contract, or other authorization (or an extension of the permit, contract, or other authorization) on the date of enactment of this Act.

By Mr. SPECTER:

S. 1970. A bill to amend chapter 171 of title 28, United States Code, with respect to the liability of the United States for claims of military personnel for damages for certain injuries; to the Committee on the Judiciary.

FERES DOCTRINE REVERSAL LEGISLATION

Mr. SPECTER. Mr. President, I seek recognition to introduce a bill which will overturn what has come to be known as the "Feres doctrine." In the 1950 case of *Feres v. U.S.*, the Supreme Court held that the United States Government is not liable under the Federal Tort Claims Act for injuries to military personnel where the injuries are sustained "incident to service." Under the Feres doctrine, therefore, a soldier would not be able to seek compensation from the government for injuries sustained due to government negligence unless the soldier happened to be on leave or furlough at the time he or she sustained the injuries.

Over the years, we have seen the Feres doctrine produce anomalous results which reflect neither the will of



the Congress nor basic common sense. For instance, under *Feres*, a soldier who is the victim of medical malpractice at an army hospital cannot sue the government for compensation. Likewise, his family cannot sue for compensation if the soldier dies from the malpractice. But a civilian who suffers from the same malpractice would be entitled to file suit against the government. Likewise, if a soldier driving home from work on an army base is hit by a negligently driven army truck, he is barred from suing the government for compensation. If the soldier dies in the accident, his family will be barred from suing for compensation. Meanwhile, a civilian hit by the same truck would have a cause of action against the United States. Unfortunately, the individuals hurt by the *Feres* doctrine are the men and women of our armed forces—people whom we should protect and reward, not punish.

The recent decision of the Third Circuit Court of Appeals in *O'Neil v. United States* illustrates the troubling results produced by the *Feres* doctrine. In *O'Neil*, the family of slain Naval officer Kerry O'Neil was barred from pursuing a wrongful death claim against the government under the *Feres* doctrine. O'Neil was murdered by her former fiancé, George Smith, a Navy ensign. The two met at the U.S. Naval Academy and were stationed at the same Naval base in California. After Ms. O'Neil broke off their engagement, Mr. Smith began to stalk her. One night while Ms. O'Neil was sitting in her on-base apartment watching a movie with a friend, Smith came to her building and killed her, her friend, and then himself.

After the murders, Kerry O'Neil's family learned that Mr. Smith had scored in the 99.99th percentile for aggressive/destructive behavior in Navy psychological tests. Under Naval procedures, these results should have been forwarded to the Department of Psychiatry at the Naval Hospital for a full psychological evaluation. Had their claim not been barred, the O'Neils would have argued that the Navy was negligent in failing to follow up on these extreme test results. I do not know whether the O'Neil's deserved to be compensated under the Act—this depends on the specific facts and the case law in this area. But it does seem clear to me that the O'Neils should not have been barred from pursuing their claim because their daughter's fatal injuries were sustained "incident to service."

Of course, there are situations in which soldiers should not be allowed to sue the government in tort. For example, in a combat situation, countless judgment calls are made which result in death or injuries to soldiers. We cannot have lawyers and juries second guessing the decisions made by field commanders and combatants in the heat of battle. But such considerations do not necessitate that military personnel should lose the right to sue the government in any context.

The bill I introduce today will reverse the court-created *Feres* doctrine and return the law to the way it was originally intended by Congress. My bill is very short and simple. It amends the Federal Tort Claims Act to specifically provide that the Act applies to military personnel on active duty the same as it applies to anyone else. My bill further specifies that military personnel will be limited by the exceptions to government liability already included in the Act, including the bar on liability for injuries sustained by military personnel in combat and the bar on liability for claims which arise in a foreign country. In short, my bill will ensure that members of our armed forces will be entitled to damages they deserve when injured through the negligence or wrongful actions of the Federal government or its agents, except for certain limited cases contemplated by Congress when it originally passed the Act.

Congress passed the Federal Tort Claims Act in 1946 to give the general consent of the government to be sued in tort, subject to several specific restrictions. Under the common law doctrine of sovereign immunity, the United States cannot be sued without such specific consent. The Act provides that the government will be held liable "in the same manner and to the same extent as a private individual under the circumstances." Thus, the Act makes the United States liable for the torts of its employees and agents to the extent that private employers are liable under state law for the torts of their employees and agents.

The Act contains many exceptions to government liability, but it does not contain an explicit exception for injuries sustained by military personnel incident to service. In fact, one of the Act's exceptions prevents "any claim arising out of the combatant activities of the military or naval forces, or the Coast Guard during time of war." By including this exception, Congress clearly contemplated the special case of military personnel and decided that certain limits must be placed on government liability in this context. But by drawing this exception narrowly and limiting it to combat situations, Congress rejected any broad exception for injuries sustained "incident to service." The Supreme Court did far more than interpret our statute when it significantly broadened the limited combat exception provided by Congress. This bill leaves intact the government's exemption for injuries sustained in combat.

The *Feres* doctrine has been the subject of harsh criticism by some of the leading jurists in the nation. In the 1987 case of *United States v. Johnson*, a 5 to 4 majority of the Supreme Court held that the *Feres* doctrine bars suits on behalf of military personnel injured incident to service even in cases of torts committed by employees of civilian agencies. Justice Scalia wrote a scathing dissent in *Johnson*, in which

he was joined by Justices Brennan, Marshall, and Stevens. Scalia wrote that *Feres* was "wrongly decided and heartily deserves the widespread, almost universal criticism it has received."

Judge Edward Becker, the Chief Judge of the Third Circuit Court of Appeals, has also spoken out strongly against the *Feres* doctrine. He has noted that "the scholarly criticism of the doctrine is legion" and has urged the Supreme Court to grant cert. to reconsider *Feres*. Judge Becker has written to me that given the failure of the Court to overturn *Feres* thus far, I should introduce legislation doing so.

Even in the *Feres* opinion itself, the Supreme Court expressed an uncharacteristic doubt about its decision. The justices recognized that they may be misinterpreting the Federal Tort Claims Act. They called upon Congress to correct their mistake if this were the case. The Court wrote:

There are few guiding materials for our task of statutory construction. No committee reports or floor debates disclose what effect the statute was designed to have on the problem before us, or that it even was in mind. Under these circumstances, no conclusion can be above challenge, but if we misinterpret the Act, at least Congress possesses a ready remedy.

Congress does possess a ready remedy, and I call upon my colleagues to exercise it. The bill I introduce today will eliminate the judicially created *Feres* doctrine and revive the original framework of the Federal Tort Claims Act. There is no reason to deny compensation to the men and women of our armed services who are injured or killed in domestic accidents or violence outside the heat of combat. I hope that when we resume our business next year my colleagues will join me in supporting and passing this legislation.

#### ADDITIONAL COSPONSORS

S. 211

At the request of Mr. MOYNIHAN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 211, a bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion for employer-provided educational assistance programs, and for other purposes.

S. 279

At the request of Mr. MCCAIN, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of S. 279, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 345

At the request of Mr. ALLARD, the names of the Senator from Minnesota (Mr. GRAMS) and the Senator from West Virginia (Mr. BYRD) were added as cosponsors of S. 345, a bill to amend the Animal Welfare Act to remove the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.

S. 486

At the request of Mr. EDWARDS, his name was added as a cosponsor of S. 486, a bill to provide for the punishment of methamphetamine laboratory operators, provide additional resources to combat methamphetamine production, trafficking, and abuse in the United States, and for other purposes.

At the request of Mr. HATCH, his name, and the name of the Senator from Delaware (Mr. BIDEN) were added as cosponsors of S. 486, *supra*.

S. 1020

At the request of Mr. GRASSLEY, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1020, a bill to amend chapter 1 of title 9, United States Code, to provide for greater fairness in the arbitration process relating to motor vehicle franchise contracts.

S. 1109

At the request of Mr. MCCONNELL, the names of the Senator from Arizona (Mr. KYL) and the Senator from Missouri (Mr. BOND) were added as cosponsors of S. 1109, a bill to conserve global bear populations by prohibiting the importation, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, bear viscera, and for other purposes.

S. 1197

At the request of Mr. ROTH, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1197, a bill to prohibit the importation of products made with dog or cat fur, to prohibit the sale, manufacture, offer for sale, transportation, and distribution of products made with dog or cat fur in the United States, and for other purposes.

S. 1257

At the request of Mr. HATCH, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 1257, a bill to amend statutory damages provisions of title 17, United States Code.

S. 1380

At the request of Mr. HATCH, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of S. 1380, a bill to provide for a study of long-term care needs in the 21st century.

S. 1419

At the request of Mr. MCCAIN, the names of the Senator from Oklahoma (Mr. NICKLES), the Senator from Tennessee (Mr. THOMPSON), and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 1419, a bill to amend title 36, United States Code, to designate May as "National Military Appreciation Month."

S. 1447

At the request of Mr. WELLSTONE, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1447, a bill to amend the Public Health Service Act, Employee Retirement Income Security Act of

1974, and the Internal Revenue Code of 1986 to provide for nondiscriminatory coverage for substance abuse treatment service under private group and individual health coverage.

S. 1500

At the request of Mr. HATCH, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 1500, a bill to amend title XVIII of the Social Security Act to provide for an additional payment for services provided to certain high-cost individuals under the prospective payment system for skilled nursing facility services, and for other purposes.

S. 1590

At the request of Mr. CRAPO, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1590, a bill to amend title 49, United States Code, to modify the authority of the Surface Transportation Board, and for other purposes.

S. 1668

At the request of Mr. KERRY, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 1668, a bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes.

S. 1708

At the request of Mr. MOYNIHAN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1708, a bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to require plans which adopt amendments that significantly reduce future benefit accruals to provide participants with adequate notice of the changes made by such amendments.

S. 1812

At the request of Mr. WARNER, the names of the Senator from Nebraska (Mr. HAGEL), the Senator from New York (Mr. MOYNIHAN), the Senator from Maine (Ms. SNOWE), the Senator from Oregon (Mr. SMITH), and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 1812, a bill to establish a commission on a nuclear testing treaty, and for other purposes.

S. 1823

At the request of Mr. DEWINE, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1823, a bill to revise and extend the Safe and Drug-Free Schools and Communities Act of 1994.

S. 1900

At the request of Mr. LAUTENBERG, the names of the Senator from Nevada (Mr. REID), the Senator from Wisconsin (Mr. FEINGOLD), and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 1900, a bill to amend the Internal Revenue Code of 1986 to allow a credit to holders of qualified bonds issued by Amtrak, and for other purposes.

S. 1954

At the request of Mr. BINGAMAN, the name of the Senator from Tennessee

(Mr. FRIST) was added as a cosponsor of S. 1954, a bill to establish a compensation program for employees of the Department of Energy, its contractors, subcontractors, and beryllium vendors, who sustained beryllium-related illness due to the performance of their duty; to establish a compensation program for certain workers at the Paducah, Kentucky, gaseous diffusion plant; to establish a pilot program for examining the possible relationship between workplace exposure to radiation and hazardous materials and illnesses or health conditions; and for other purposes.

SENATE CONCURRENT RESOLUTION 53

At the request of Mrs. FEINSTEIN, the name of the Senator from Washington (Mr. GORTON) was added as a cosponsor of Senate Concurrent Resolution 53, a concurrent resolution condemning all prejudice against individuals of Asian and Pacific Island ancestry in the United States and supporting political and civic participation by such individuals throughout the United States.

SENATE RESOLUTION 91

At the request of Mr. NICKLES, his name was added as a cosponsor of Senate Resolution 91, a resolution expressing the sense of the Senate that Jim Thorpe should be recognized as the "Athlete of the Century."

SENATE RESOLUTION 118

At the request of Mr. REID, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of Senate Resolution 118, a resolution designating December 12, 1999, as "National Children's Memorial Day."

SENATE RESOLUTION 128

At the request of Mr. COCHRAN, the names of the Senator from Virginia (Mr. ROBB) and the Senator from Nevada (Mr. REID) were added as cosponsors of Senate Resolution 128, a resolution designating March 2000, as "Arts Education Month."

SENATE CONCURRENT RESOLUTION 76—EXPRESSING THE SENSE OF CONGRESS REGARDING A PEACEFUL RESOLUTION OF THE CONFLICT IN THE STATE OF CHIAPAS, MEXICO AND FOR OTHER PURPOSES

Mr. LEAHY (for himself, Mr. KENNEDY, Mrs. FEINSTEIN, Mr. JEFFORDS, Mr. TORRICELLI, Mrs. MURRAY, Mr. DURBIN, Mr. WELLSTONE, Mr. FEINGOLD, Mr. HARKIN, Mr. KERRY, Ms. MIKULSKI, and Mrs. BOXER) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 76

Whereas the United States and Mexico have a long history of close relations and share a wide range of interests;

Whereas a democratic, peaceful and prosperous Mexico is of vital importance to the security of the United States.

Whereas the United States Government provides assistance and licenses exports of military equipment to Mexican security forces for counter-narcotics purposes;

Whereas the Department of State's 1998 Country Report on Human Rights Practices in Mexico stated that a "culture of impunity pervades the security forces" and documented human rights violations, including arbitrary detention, torture, extrajudicial killings, and disappearances, by these forces;

Whereas confrontations in August 1999 between members of the Mexican military and supporters of the Zapatista National Liberation Army (EZLN) in Chiapas, Mexico are representative of the political tension and violence that has plagued the region for years;

Whereas the conflict has its roots in the poverty and injustice suffered by the indigenous people of Chiapas, and shared by the poor in the neighboring states of Oaxaca and Guerrero;

Whereas the lack of progress in implementing a preliminary peace agreement signed in 1996 and the intimidating level of militarization by the Mexican army, paramilitary groups and the EZLN has resulted in the forced displacement of thousands of indigenous people and exacerbated the impoverished conditions in Chiapas;

Whereas on September 14, 1999, the Commission for Peace and Reconciliation in Chiapas of the Conference of Mexican Catholic Bishops urged the Government of Mexico to consider relocating military forces in Chiapas to only those positions absolutely necessary to maintaining the integrity and security of Mexico;

Whereas the Government of Mexico has devoted resources to reduce poverty in Chiapas, but the breakdown in peace negotiations and the lack of trust between the Mexican Government and some indigenous communities have limited the impact of that assistance;

Whereas on September 7, 1999, the Government of Mexico pledged to renew dialogue with the EZLN, support the formation of a new mediation team, and investigate human rights abuses in Chiapas;

Whereas the EZLN has not yet accepted the Government of Mexico's overtures to resume negotiations; and

Whereas the summary expulsions of American citizens and human rights monitors from Mexico are inconsistent with the freedoms of movement, association and expression; Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That it is the sense of Congress that the Secretary of State should—

(1) take effective measures to ensure that United States assistance and exports of equipment to Mexican security forces—

(A) are used primarily for counter-narcotics purposes; and

(B) are not provided to units of security forces that have been implicated in human rights violations, unless the Government of Mexico is taking effective measures to bring the individuals responsible to justice;

(2) encourage the EZLN and the Government of Mexico to take steps to create conditions for good faith negotiations that address the social, economic and political causes of the conflict in Chiapas, to achieve a peaceful and lasting resolution of the conflict, and to vigorously pursue such negotiations;

(3) commend the Government of Mexico for its renewed commitment to negotiations and for establishing a date for the United Nations High Commissioner for Human Rights to visit Mexico to discuss human rights concerns there;

(4) give a higher priority in discussions with the Government of Mexico to criminal justice reforms that protect human rights, emphasizing United States concerns about arbitrary detention, torture, extra judicial

killings, and disappearances, and the failure to prosecute individuals responsible for these crimes; and

(5) urge the Government of Mexico to implement the recommendations of the Inter-American Commission on Human Rights, particularly with regard to American citizens and others who have been summarily expelled from Mexico in violation of Mexican law and international law.

Mr. LEAHY. Mr. President, I am today submitting a concurrent resolution expressing the sense of Congress regarding measures to achieve a peaceful settlement of the conflict in the state of Chiapas, Mexico.

This resolution is cosponsored by Senators KENNEDY, FEINSTEIN, JEFFORDS, TORRICELLI, MURRAY, DURBIN, WELLSTONE, FEINGOLD, HARKIN, KERRY, MIKULSKI, and BOXER.

Congresswoman NANCY PELOSI is introducing an identical resolution today in the House of Representatives.

The purpose of this resolution is to convey our support for a peaceful settlement of the conflict in Chiapas that has been simmering since the Zapatista uprising in 1994. Since then, and despite repeated attempts at negotiations, the situation remains tense and prospects for productive dialogue remote. In August, armed confrontations between members of the Mexican military and Zapatista supporters in Chiapas was a reminder of the political violence that has plagued the region for years. I submitted a similar resolution just over a year ago and, unfortunately, the situation remains largely unchanged.

This resolution does not attempt to take sides or to dictate an outcome of that conflict. It is not meant to embarrass or interfere in Mexico's internal affairs. The situation in Chiapas is a complex one that has social, ethnic, economic and political dimensions. It is a manifestation of years of Mexican history. It is for the Mexican people to resolve.

But despite its complexities, there is no doubt that the indigenous people of Chiapas have been the victims of injustice for centuries. Most do not own any land and they live—as their parents and grandparents did—in abject poverty. The 1994 Zapatista uprising, in which some 150 people died, was a reflection of that injustice and despair, and the political tension and violence of recent years has only exacerbated their plight.

To his credit, President Zedillo has devoted considerable financial resources to address the poverty and lack of basic services in Chiapas. On September 7, 1999, he pledged to renew dialogue with the Zapatistas and investigate human rights abuses there. The scheduled November 23rd visit to Mexico by Mary Robinson, the United Nations High Commissioner for Human Rights, is an important and welcome development. I am hopeful that the Mexican Government will engage in an open dialogue with Ms. Robinson and that progress can be made on ways to further promote and protect human rights in Mexico.

Despite these positive steps, however, Mexican officials indicate that they expect little progress toward resolving the conflict before the presidential elections in July 2000. This is very disappointing. While mistrust runs deep on both sides, a great deal can be accomplished in eight months if the parties to the conflict are willing to take the steps to create conditions for good faith negotiations to succeed, and then sit down at the table together.

There is little evidence that the Mexican Government's strategy is working. Since early 1998, the Zedillo administration has, on the one hand, lavishly funded social programs in those indigenous communities in Chiapas that are willing to accept them. On the other hand, Mexican troops have tightened their grip on the impoverished communities of Zapatista supporters. They patrol the roads in and out of Chiapas in armored vehicles, brandishing weapons and establishing military check-points and bases when it is abundantly clear that neither the communities, nor the Zapatistas themselves, pose a credible threat to the Mexican Government. In addition, paramilitary forces, responsible for some of the worst atrocities, continue to operate in the region.

Human rights monitors, including Mexican citizens, have been harassed, and foreigners, including American citizens, have been summarily expelled from Mexico for activities that amount to nothing more than criticizing the policies of the Mexican Government.

The Zapatistas have also contributed to their isolation. They have not accepted the Mexican Government's recent overtures to resume dialogue and seem resigned to wait in their jungle stronghold until there is a new government before considering a return to talks. Again, July is a long way away, especially for the Zapatistas' supporters who struggle every day just to find food and shelter for themselves and their families. They have suffered long enough.

Mr. President, this resolution calls on our Secretary of State to encourage the Mexican Government and the Zapatistas to support negotiations that address the underlying causes of the conflict, to achieve a lasting peace. It seeks to convey our concern about the people of Chiapas, and the urgent need for concrete progress to resolve a conflict that has cost many innocent lives and threatens the economic and political development of our southern neighbor.

A stable, peaceful and prosperous Mexico is not only in the best interest of all Mexicans, it is also in the economic and security interests of the United States. And human rights abuses, wherever and however they occur, deserve our attention.

The resolution urges the Secretary of State to ensure that the United States is not contributing to the political violence, by reaffirming current law which limits assistance and exports of equipment only to Mexican security forces

who are primarily involved in counter-narcotics activities and who do not commit human rights abuses. In order to ensure that the law is faithfully implemented, the State Department needs to know who we train and who receives our equipment.

It calls on the Mexican Government to respect the freedoms of movement, association and expression by implementing the recommendations of the Inter-American Commission on Human Rights, particularly with regard to American citizens and others who have been summarily expelled from Mexico in violation of Mexican law and international law.

And it urges both sides to take initiatives for peace.

Mr. President, some may ask why we are submitting this resolution today, when this conflict has been simmering for years. It is my hope that in conjunction with Mary Robinson's visit next week, this Resolution will send a strong message to the Mexican Government, the Zapatistas, our own administration and the international community that an intensified effort is needed urgently to resolve the conflict peacefully.

SENATE RESOLUTION 233—EXPRESSING THE SENSE OF THE SENATE REGARDING THE URGENT NEED FOR THE DEPARTMENT OF AGRICULTURE TO RESOLVE CERTAIN MONTANA CIVIL RIGHTS DISCRIMINATION CASES

Mr. BAUCUS (for himself and Mr. BURNS) submitted the following resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. RES. 233

Whereas there exists a strong public policy against discrimination against minority groups, whether the discrimination is committed by private individuals or by the Federal Government in the operation of its programs;

Whereas, whenever discrimination occurs in the conduct of a Federal Government program, the responsible Federal Government agency should take quick and aggressive action to remedy the discrimination;

Whereas, last year, the Department of Agriculture was held accountable for certain civil rights violations against United States agricultural producers in connection with their attempted participation in lending programs of the Department;

Whereas, a significant number of Montana civil rights petitioners have not received a timely, and equitable resolution of their complaints;

Whereas the agricultural community has faced a series of hardships, including record low prices, extreme weather disasters, and a shortage of farm loan opportunities;

Whereas additional frustration and financial difficulties perpetuated by the inadequate review process has further imposed undue hardship on the Montana civil rights petitioners;

Whereas the mission of the Office of Civil Rights of the Department of Agriculture requires the Office to facilitate the fair and equitable treatment of customers and employees of the Department while ensuring the de-

livery and enforcement of civil rights programs and activities;

Whereas the Department of Agriculture should be committed to the policy of treating its customers with dignity and respect as well as to providing high quality and timely products and services; and

Whereas an urgent need exists for the Department of Agriculture to resolve certain Montana civil rights discrimination cases, many backlogged, by a date certain in furtherance of that policy: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that, not later than March 1, 2000, the Secretary of Agriculture should resolve, or take other action to resolve, all cases pending on the date of approval of this resolution of alleged civil rights discrimination by the Department of Agriculture against agricultural producers located in the State of Montana.

• Mr. BAUCUS. Mr. President, I rise today to submit a sense-of-the-Senate Resolution regarding the urgent need for the U.S. Department of Agriculture to resolve its civil rights discrimination cases. On behalf of Senator BURNS, the bill's cosponsor, and myself, I urge the Senate to recognize the urgency of this situation.

Mr. President, there exists a strong public policy against discrimination against minority groups, whether the discrimination is committed by private individuals or by the Government in the operation of its programs, and it is our firmly held belief that whenever discrimination occurs in the conduct of Government programs, the responsible Government agencies should take quick and aggressive action to remedy such discrimination.

I am most concerned that over the past year, such action has not been taken by the U.S. Department of Agriculture's Office of Civil Rights. In fact, many Montana civil rights cases that my office and that of Senator's BURNS have been working with are seriously backlogged in the system and have consequently remained unsatisfactorily addressed.

We have worked hard with the Montana Department of Agriculture's Farm Agency to resolve these cases. The Director of the FSA and the State FSA Committee has worked hard to resolve any outstanding problems concerning its programs and have made certain that these kinds of problems do not occur in Montana. I commend their outreach efforts in ensuring the equitable delivery of the Agency's programs to all eligible Montana recipients.

We need a better working relationship with the USDA's Office of Civil Rights to bring the outstanding cases to resolution in a timely manner. Repeated phone calls and requests have yielded few answers. For that reason, I am offering this resolution which binds the agency to its mission of facilitating the fair and equitable treatment of USDA customers and employees while ensuring the delivery and enforcement of civil rights programs and activities. Further we hope to commit the USDA to treating its customers with dignity and respect as well as to providing quality and timely products

and services. Finally, the resolution resolves that not later than March 1, 2000, the Secretary should resolve all the outstanding cases of alleged civil rights discrimination by the Department of Agriculture.

It is high time to bring this issue to resolution, and I appreciate the Senate's consideration of this important matter.

• Mr. BURNS. Mr. President. I am pleased to be joined by Mr. BAUCUS, in sponsoring a sense-of-the-Senate resolution which addresses the backlog of Montana civil rights complaints at the U.S. Department of Agriculture (USDA).

Last year, a finding was made that the USDA had, for decades, been guilty of violating many of America's producer's civil rights. When these producers tried to take advantage of the programs offered by the USDA they were treated differently than their friends and neighbors. We enacted Legislation last fall, that was intended to right this wrong. Even with passage of this provision, it remains a difficult challenge to ensure that those who have been harmed by USDA will receive a prompt and balanced resolution of their complaints.

It appears that a number of those previously investigated complaints have fallen into some sort of "black hole". Despite numerous phone calls and concerted pressure, no progress has been made in resolving these cases. We have been contacted by a number of Montanans who have shared horror stories about the treatment their cases have received from the USDA's Office of Civil Rights. These complaints are simply being ignored. The inadequacy of this process is adding insult to injury, keeping these producers in limbo and allowing their complaints to rest, unresolved. These constituents cannot get on with their lives until the USDA takes action. For those who have justified complaints, this delay is another slap in the face.

This resolution expresses the sense of the Senate that USDA's delays must stop. These cases must be resolved soon. It is our intent that they be resolved by March 1, 2000. These producers has suffered too much already. They cannot afford to wait any longer.

We look forward to working with members of other states affected by this abuse of the civil rights program to resolve these complaints as quickly as possible.

AMENDMENTS SUBMITTED

FURTHER CONTINUING  
RESOLUTION, 2000

BYRD (AND OTHERS) AMENDMENT  
NO. 2780

Mr. BYRD (for himself, Mr. MCCONNELL, Mr. ROCKEFELLER, Mr. BUNNING, Mr. REID, Mr. CRAIG, Mr. BRYAN, Mr. HATCH, Mr. BENNETT, Mr. MURKOWSKI, Mr. CRAPO, Mr. ENZI, Mr. BURNS, Mr.

KYL, Mr. BREAUX, Mr. SHELBY, Mr. GRAMM, and Mr. GRAMS) proposed an amendment to the joint resolution (H.J. Res. 82) making further continuing appropriations for the fiscal year 2000, and for other purposes, as follows:

At the appropriate place, insert the following:

**SEC. . DISPOSAL OF EXCESS SPOIL AND COAL MINE WASTE.**

(a) IN GENERAL.—Notwithstanding any other provision of law (including any regulation or court ruling), hereafter—

(1) in rendering permit decisions for discharges of excess spoil and coal mine waste into waters of the United States from surface coal mining and reclamation operations, the permitting authority shall apply section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) and the section 404(b)(1) guidelines pursuant to section 404(b)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1344(b)(1)) and implementing regulations set forth in part 230 of title 40, Code of Federal Regulations (as in effect on October 19, 1999);

(2) the permitted disposal of such spoil or waste meeting the requirements of the section 404(b)(1) guidelines referred to in paragraph (1) shall be deemed to satisfy the criteria for granting a variance under regulations set forth in sections 816.57 and 817.57 of title 30, Code of Federal Regulations, and applicable State regulations; and

(3) Federal and State water quality standards shall not apply to the portions of waters filled by discharges permitted pursuant to the procedures set forth in paragraphs (1) and (2); all applicable Federal and State water quality standards shall apply to all portions of waters other than those filled pursuant to the permitting procedures set forth in paragraphs (1) and (2).

(b) DURATION OF EFFECTIVENESS.—The permitting procedures specified in subsection (a) shall remain in effect until the later of—

(1) the date that is 2 years after the date of enactment of this Act; or

(2) the effective date of regulations promulgated to implement recommendations made as a result of the environmental impact statement relating to the permitting process, the preparation of which was announced at 64 Fed. Reg. 5800 (February 5, 1999).

(c) EFFECT OF SECTION.—Nothing in this section modifies, supersedes, undermines, displaces, or amends any requirement of, or regulation issued under, the Federal Water Pollution Control Act (commonly known as the “Clean Water Act”) (33 U.S.C. 1251 et seq.) or the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.), as applied by the responsible Federal agencies on October 19, 1999.

(d) PERIOD OF EFFECTIVENESS.—Notwithstanding any other provision of law repealing or terminating the effectiveness of this Act, this section shall remain in effect until the date of termination of the effectiveness of the permitting procedures in accordance with subsection (b).

**SEC. . HARDROCK MINING.**

(a) IN GENERAL.—For the purposes of section 1000(a)(3) of division B of the Act enacting H.R. 3194 of the 106th Congress, in lieu of section 357 of title III of H.R. 3423 of the 106th Congress, as introduced on November 17, 1999, regarding the issuance of regulations on hardrock mining, the following shall apply:

(1) HARDROCK MINING.—None of the funds made available under this Act or any other Act shall be used by the Secretary of the Interior to promulgate final regulations to re-

vise subpart 3809 of 43, Code of Federal Regulations, except that the Secretary, after the end of the public comment period required by section 3002 of the 1999 Emergency Supplemental Appropriations Act (Public Law 106-31; 113 Stat. 89), may issue final regulations to amend that subpart if the regulations are consistent with—

(A) the regulatory gap findings identified in the report of the National Research Council entitled “Hardrock Mining on Federal Lands”; and

(B) statutory authorities in effect as of the date of enactment of this Act.

(2) LIMITATION.—Nothing in this section expands the statutory authority of the Secretary of the Interior in effect as of the date of enactment of this Act.

(b) PERIOD OF EFFECTIVENESS.—This section—

(1) takes effect 1 day after the date of enactment of the Act enacting H.R. 3194 referred to in subsection (a); and

(2) notwithstanding any other provision of law repealing or terminating the effectiveness of this Act, shall remain in effect unless repealed by Act of Congress that makes specific reference to this section.

**SEC. . MILLSITES.**

(a) IN GENERAL.—For the purposes of section 1000(a)(3) of division B of the Act enacting H.R. 3194 of the 106th Congress, in lieu of section 337 of title III of H.R. 3423 of the 106th Congress, as introduced on November 17, 1999, regarding the millsites opinion, the following shall apply:

(1) MILLSITES OPINION.—No funds shall be expended by the Secretary of the Interior or the Secretary of Agriculture, for fiscal years 2000 and 2001, to limit the number or acreage of millsites based on the ratio between the number or acreage of millsites and the number or acreage of associated lode or placer claims with respect to—

(A) any patent application excluded from the operation of section 112 of the Department of the Interior and Related Agencies Appropriations Act, 1995, by section 113 of that Act (108 Stat. 2519);

(B) any operation or property for which a plan of operations has been approved before the date of enactment of this Act; or

(C) any operation or property for which a plan of operations, or amendment or modification to an existing plan, was submitted to the Bureau of Land Management or the Forest Service before May 21, 1999.

(2) NO RATIFICATION.—Nothing in this Act or the 1999 Emergency Supplemental Appropriations Act (Public Law 106-31) shall be construed as an explicit or tacit adoption, ratification, endorsement, approval, rejection, or disapproval of the opinion dated November 7, 1997, by the Solicitor of the Department of the Interior concerning millsites.

(b) PERIOD OF EFFECTIVENESS.—This section—

(1) takes effect 1 day after the date of enactment of the Act enacting H.R. 3194 referred to in subsection (a); and

(2) notwithstanding any other provision of law repealing or terminating the effectiveness of this Act, shall remain in effect unless repealed by Act of Congress that makes specific reference to this section.

**HELMS (AND OTHERS)  
AMENDMENT NO. 2781**

Mr. LOTT (for Mr. HELMS (for himself, Mr. EDWARDS, and Mr. ROBB)) proposed an amendment to the joint resolution, H.J. Res. 82, supra; as follows:

At the appropriate place insert:

**COMMODITY CREDIT CORPORATION PRODUCER-OWNED MARKETING ASSOCIATIONS FORGIVENESS**

SEC. 1. The Secretary of Agriculture shall reduce the amount of any principal due on a loan made to marketing association incorporated in the State of North Carolina for the 1999 crop of an agricultural commodity by at least 75 percent if the marketing association suffered losses of the agricultural commodity in a county with respect to which—(1) a natural disaster was declared by the Secretary for losses due to Hurricane Dennis, Floyd, or Irene; or (2) a major disaster or emergency was declared by the President for losses due to Hurricane Dennis, Floyd, or Irene under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)

If the Secretary assigns a grade quality for the 1999 crop of an agricultural commodity marketed by an association described in subsection (a) that is below the base quality of the agricultural commodity, the Secretary shall compensate the association for losses incurred by the association as a result of the reduction in grade quality.

Up to \$81,000,000 of the resources of the Commodity Credit Corporation may be used for the cost of this provision: Provided, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) and prevent sequestration of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

SEC. 2. In administering \$50,000,000 in emergency supplemental funding for the Emergency Conservation Program, the Secretary shall give priority to the repair of structures essential to the operation of the farm.

**ADDITIONAL STATEMENTS**

**TRIBUTE TO GRAHAM STILES  
NEWELL**

● Mr. JEFFORDS. Mr. President, it gives me great pleasure to stand before the Senate today and pay tribute to a man who has greatly influenced the cultural maturity of my home state of Vermont. Graham Stiles Newell will be honored as Citizen of the Year by the Vermont Chamber of Commerce on December 4, 1999. Graham has made extraordinary contributions to Vermont in many areas throughout his life. And he has made his biggest contributions in one area in which I have spent a great deal of legislative energy—education.

Graham Newell probably learned to read before he learned to walk. I understand that he first secured a library card at the Saint Johnsbury Atheneum when he was in the first grade. Since then, he has been passing on his knowledge to anyone willing to learn, and that number is larger than you can imagine. After graduating from the University of Chicago in 1938, he launched an incredible career in education, one that touched three generations of many Vermont families.

Graham has been a leader in Vermont education in both the professional and legislative arenas. In the last seven decades he has been a teacher at the Junior High, High School, and College level, and will undoubtedly keep teaching well into the next millennium. Graham began his teaching career at his alma mater, Saint

Johnsbury Academy, in 1938, and remained on the faculty for nine years. From 1945 to 1982 he taught history at Lyndon State College full-time. After "retiring" in 1982, he returned to the Academy to teach Latin, where you will still find him today. He also continued to teach one or two history classes a semester at Lyndon State College until 1996.

Most people consider Latin a dead language, but if you were to enter Graham's classroom today you would find it to be as alive and enjoyable as ever. A testament to Graham's teaching skills was demonstrated at the Academy in 1997, when 47 of his 52 Latin students, over 90 percent, made honors on the National Latin Exam, an extremely challenging test taken by over 90,000 students across the United States.

Graham's contributions to education do not end in the classroom. While teaching, he also served in the Vermont Legislature for over 25 years. He was a member and chair of the Vermont Senate Education Committee during the 1960s, helping to create Vermont's education laws. Indeed, the self-proclaimed Ambassador of the Northeast Kingdom has positively affected every single student in the state of Vermont over the last 30 years. In fact, his influence has even reached students outside of Vermont, due to his tenure on the New England Board of Higher Education. But Graham always remained supremely faithful to the students in his classroom, once even teaching class over the phone from the Vermont Statehouse.

One can look at Graham's education accomplishments alone and see a lifetime of work and success. However, his influence has touched many in other fields as well. As President of the Vermont Historical Society from 1965 to 1969, his many successes included securing a permanent home for the organization in the historic Pavilion Office Building in Montpelier. He has also served on a number of commissions, including the Commission on Interstate Cooperation, the Historic Sites Commission, the Commission to Study State Government (or "Little Hoover" as we called it), the Vermont Civil War Centennial Commission, the board of managers of the Council of State Governments, and the Education Commission of the States. In addition, the thousands of people who check into the Northeastern Vermont Regional Hospital each year should be thankful to Graham as he is largely responsible for its existence. I could go on, but I'm afraid it would take the remainder of this session of congress to do so.

I am thankful for the opportunity to provide my colleagues with a shining example of a real Vermont renaissance man. I join countless Vermonters in offering my heartfelt congratulations and gratitude to Graham Stiles Newell for his many years of hard work and dedication to the citizens of Vermont.●

#### TRIBUTE TO BARB RABE

● Mr. KOHL. Mr. President, I rise today to recognize the work of Barb Rabe, who retired after 29 years of service in the Oshkosh School District. She began her career in the Oshkosh School District in 1970 at the Perry Tipler Middle School as a Teachers Assistant, and then transferred to Oakwood Elementary School where she served for the next 27 years. During her years of service, Barb worked for six principals, adapting to each new principal's style, and was always actively involved as the staff grew from 12 to 42 and the student population grew from 200 to 500. She worked hard at creating partnerships with staff, students and families that would foster collaboration, cooperation and allegiance. Barb's strong work ethic, energy and enthusiasm will be missed.

While mastering the key elements of organization and flexibility, giving of her time and talent in serving the faculty and students of Oakwood School, and showing love and appreciation for students, she also came up with new ideas to adapt to the changing work environment. She developed the computerized milk and lunch money collection program at the school, which helped the school collect money more efficiently and thoroughly. She also purchased her own computer years before the school purchased them and took her work home to complete it in an organized fashion. When Oakwood School became computerized, she played an instrumental role in the conversion process. The students and staff of Oakwood will miss her professional and positive demeanor, although her husband of 45 years, Gordon, and their three sons and their families, will enjoy spending more time with her. Barb will be sorely missed by the entire Oakwood Elementary School community, however I extend my best wishes for a healthy, enriched and rewarding retirement.●

#### 30TH ANNIVERSARY OF THE SAN DIEGO REGIONAL PRINTING FACILITY OF THE JOHN H. HARLAND COMPANY

● Mrs. FEINSTEIN. Mr. President, this year marks the 30th anniversary of the San Diego Regional Printing Facility of the John H. Harland Company.

The John H. Harland Company was founded in 1923, and is the second largest check printer in the United States.

The John H. Harland Company opened its doors in California in 1969. Today, the San Diego Regional Printing Facility employs 249 employees and fills 98,900 orders per week. The jobs this facility has brought to our state throughout the years have been of great benefit to California.

I offer my congratulations to the John H. Harland Company and its employees on the occasion of its 30th Anniversary and wish it great, continued success in the future.●

#### TRIBUTE TO MR. MICHAEL J. NAPLES

● Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to Mr. Michael J. Naples. "Napes," as he is affectionately called by all who know him, is retiring after 29 years of teaching at Ocean City High School in New Jersey. He has earned great respect from students and peers alike. Each year the students Mr. Naples' taught and the athletes he coached attest to his dedication to excellence.

Although his first commitment was to education, his enthusiasm for cross-country and track leave an enduring legacy at Ocean City High School. Mr. Naples' cross-country record over the last 21 years is 209 victories and 28 losses. His track record is 133 wins and only 8 losses. During his tenure as a track coach, Mr. Naples led the Raiders to two state titles and coached 9 individual state champions.

His greatest moment as a coach came during the 1989 cross-country season, when he inspired his girls' team to capture the first state title for an Ocean City High School team in 24 years!

Mr. President, it is often difficult to say goodbye to a teacher who has touched the lives of so many people. This is a teacher whose former students are continually coming back to thank him for inspiring them, educating them and, most importantly, caring about them. My deepest respects go to this inductee of the New Jersey Interscholastic Athletic Association Hall of Fame. He has left a lasting legacy of high academic standards and excellence in sports.●

#### NATIONAL ADOPTION MONTH HONORS WEST VIRGINIA ADOPTION ANGELS

● Mr. ROCKEFELLER. Mr. President, I rise today to honor three West Virginia individuals who have recently been awarded "Adoption Angel" awards by the Congressional Coalition on Adoption. Larry and Jane Leech and Judge Gary Johnson are truly "angels" in adoption.

President Clinton recently proclaimed November "National Adoption Month". It is a good time to re-commit ourselves to doing all we can to ensure that all children have the opportunity to grow up in safe, stable and permanent homes.

During Adoption Month in 1997, the Adoption and Safe Families Act, a bill I sponsored, was signed into law. This act, for the first time ever, made children's safety, health and opportunity for loving, stable families the paramount factors to consider when planning for children in foster care. The act provided incentive bonuses for states successful in increasing adoptions.

My state of West Virginia has made a lot of progress in moving kids out of foster care and into permanent homes. When the adoption bonuses for 1999 were announced, I was proud that West



Virginia, because three of our state's children. Brian, Shawn and Sarah Keane, had the honor of introducing President Clinton the day the bonuses were announced. The 3 Keane children along with 208 more West Virginia foster children moved in with their adoptive families in 1998.

Our State is working hard to increase public awareness of adoption and children needing homes. A quarterly newsletter, "Open Your Heart, Open Your Home" features stories of waiting children and successful adoptive families. In May, Dave Thomas came to West Virginia for the third annual Foster and Adoptive Parent Recognition Day, to recognize adoptive parents who provide homes for children with special needs.

We have been able to make this progress largely as a result of the efforts of the individuals who were honored by the Congressional Coalition on Adoption, and other dedicated and hard-working West Virginians like them. Let me tell you a little about these "angels".

Larry and Jane Leech have been foster parents for many years, opening their home and their hearts to children in need of both. Working with the West Virginia Department of Health and Human Resources, the Leeches adopted a sibling group of three young boys, twins age 4 and an older brother, age 6, in 1998. Now, a year later, the Leeches are again in the final stages of adopting another sibling group—this time, three older girls. Mr. and Mrs. Leech also have three biological children. They have a tremendous amount of love and a strong commitment to all nine of their children. Recently, the Leeches and their children visited the West Virginia Governor's mansion where they were honored by First Lady Hovah Underwood, for their commitment to children in need.

Judge Gary Johnson believes that all children in the foster care system deserve permanent homes. As the 28th Judicial circuit judge, elected in 1992, Judge Johnson has worked closely with the West Virginia Department of Health and Human Resources. He meets with them quarterly to review problems or identify issues that prevent children in West Virginia from achieving permanence in their lives. Judge Johnson continually increases his own knowledge of the issues by attending conferences on child welfare.

The progress we have made since the passage of the 1997 Adoption Act is significant. Certainly the 211 West Virginia children who found families last year, including the six children who now call Larry and Jane Leech "Mom" and "Dad" know that. But over 400 West Virginia children are still waiting and hoping to be adopted—over 100,000 children in our nation are still waiting and hoping to be adopted. Too many of these children are growing up in the insecurity of foster care. Too many of them are becoming teenagers without a permanent family.

And that is why we need "National Adoption Month". We need opportunities to honor the angels in adoption like the Leeches and Judge Johnson. And we need the opportunity to publicly re-new our commitment to ensuring that all children have the opportunity for permanent adoptive homes.

I am pleased to join the other members of the Congressional Coalition on Adoption in honoring more than 50 "Angels of Adoption" from around the country. I am doubly pleased that 3 of these angels are from West Virginia. And I pledge to continue to work on legislation that will help all of West Virginia's, and America's foster children have the opportunity that the Leech children now have, the chance to grow up in a permanent, loving family.

I urge my colleagues to dedicate themselves to this effort as well.●

#### JEWISH HISTORY IN GREECE

● Mr. SARBANES. Mr. President, in recent years there has been renewed interest in the early history of the Jewish community in Greece. The Hellenic and Jewish peoples have had a long and constructive relationship, and that interaction has been one of the foundations of Western civilization.

An important part of this historical movement is the renewed research on historic Jewish sites in Greece. There is now an active and impressive Jewish museum in Athens which has served as a focal point for this activity. These efforts have spawned a number of individuals to do their own family and group research; and I am pleased to report that one of my constituents, Dr. Judith Mazza, has written an excellent account of her visit to Greece entitled, "First-time Traveler's Impressions of Jewish Sites in Greece," which was published in the spring 1999 issue of *Kol haKEHILA*. Dr. Mazza is descended from a Romaniote Jewish family from Greece, and her article depicts succinctly the rich and enduring Jewish cultural and religious legacy in Greece. I recommend it to all those interested in the history of the Jewish people and ask that the article be inserted at this point in the RECORD.

The article follows:

[From *Kol haKEHILA*, Spring 1999]

A FIRST-TIME TRAVELER'S IMPRESSIONS OF  
JEWISH SITES IN GREECE

(By Dr. Judith Mazza)

I first saw mention of the Jewish Museum of Greece, located in Athens, about twenty years ago. Curious about my family history, I joined the Museum as an "American Friend." Upon joining, I received a letter from the founder (now Director Emeritus) of the museum, Nicholas Stavroulakis, concerning my family name (Mazza, Matsas, Matza, etc). I learned from that letter that my family most probably was a Romaniote family rather than a Sephardi family. I then understood why my father's family never spoke Ladino (judaeo-espanol). My father, born in the United States, spoke Greek at home, as did his parents (who emigrated to the United States in the early 1900s from Ionnina and Corfu).

My husband and I were curious to visit Jewish sites in Greece. My interest had been stimulated by the book *Jewish Sites and Synagogues of Greece* (Athens, 1992) by Stavroulakis and Timothy DeVinney. Prior to reading this book, I knew little about the communities that had existed in Greece prior to World War II. I did not have the opportunity to travel to Greece until November 1998. As soon as I knew I would be in Athens, I attempted to contact the Jewish Museum of Greece. *Kol haKEHILA*, was the first internet source to give me a way to contact the museum by e-mail.

By e-mail, I asked the museum's curator, Zanet Battinou, to help find us a knowledgeable guide for our day in Athens. She recommended Dolly Asser. In addition to visiting ancient sites in Athens that day, Ms. Asser also took us to the Jewish Museum of Greece, and to the two modern synagogues in Athens.

#### ATHENS

We began our day at the Museum. It had recently relocated and now occupies an entire building in the Plaka neighborhood. The museum has a number of floors, each with a different focus. As a first-time visitor, I found it interesting to see historic artifacts, documents, clothing and a wide variety of religious and domestic objects. There is a research library on the top floor. School children arrived as we were leaving, so apparently a visit to the Jewish Museum of Greece has become a part of the public school curriculum.

After we left the museum, we visited the two synagogues. They are located on Melidoni Street, immediately across the street from one another. The street is gated and guarded by an armed policeman as a precaution against potential terrorist incidents.

We first went to the Beth Shalom synagogue, which is the only actively used synagogue for the 3,500 Jews in Athens today. Ms. Asser introduced us to Rabbi Jacob Arar, who studied in France and Israel, inasmuch as there are no rabbinical schools in Greece. The outside of the building has simple lines and is faced in white marble. The interior of the synagogue is mostly wood paneled and has a warm and comfortable feeling.

Directly across the street is the Ianniotiki synagogue, which had been built by Romaniote Jews from Ionnina. It is located on the second floor of the building. The lower floor houses the Athens Jewish community offices. We obtained the key to the synagogue from the office staff and walked through a hallway into a courtyard. The courtyard was fully paved except for a small area from which one large palm tree grew. We walked up the narrow exterior stairs to a walkway, and unlocked the door. This synagogue was smaller and seemed older than the synagogue across the street. We later learned that it is mostly used for special occasions. It is elegant in its simplicity.

#### RHODES

We had the opportunity to see one other Jewish site in Greece when we stopped in Rhodes a few days later. We had seen a website for the Jewish Museum of Rhodes before our travels began at [www.RhodesJewishMuseum.org](http://www.RhodesJewishMuseum.org). We sought out the island's synagogue and adjacent museum. Finding the street in the old walled city of Rhodes was not too difficult, as it was clearly labeled and the synagogue is noted on tourist maps. As we walked toward the synagogue and museum, we knew that we were in what had once been the Jewish quarter of the city. We could see Hebrew inscriptions above some of the doorways, signifying houses built by prominent Jewish families. However, many of these buildings appeared to be in a state of disrepair. Unfortunately,



we had no information about the buildings and knew virtually nothing about the Jewish community that once existed here.

As we walked, we could see through iron gates, that some buildings had interior courtyards with interesting floor patterns formed by smooth black and white stones. In some courtyards, the stone patterns were intact, while in others the patterns were quite deteriorated.

We could not find the synagogue itself, but luckily, we asked directions from an elderly woman. Lucia Modiano Sulam turned out to be the keeper of the synagogue and was kind enough to guide us to it. She was a Holocaust survivor, with tattooed numbers on her forearm.

We were quite unprepared for what we found when we entered Kahal Shalom synagogue. The synagogue, in very good condition, was more elaborate than the synagogues we had seen in Athens. Crystal chandeliers hung from the ceiling. Beautiful carpets lay on the floor. The mosaic floor inside was made of the same black and white smooth stones that we had seen elsewhere. Here, the stones were arranged in more elaborate patterns. Chairs were placed on the two long sides of the interior and the wooden bimah was in the middle of the room.

Just outside the synagogue entrance is a courtyard which has a stone mosaic floor. It is well preserved.

We also visited the Jewish Museum of Rhodes, located next to the synagogue. This is a new museum in its first stage of development. Aron Hasson, a Los Angeles attorney whose family came from Rhodes, founded it. The museum currently consists of one room with white rustic walls and a curved ceiling. When we were there, the museum exhibition consisted of photographs and other printed materials.

#### TOURISM TO JEWISH SITES IN GREECE

We knew that the Jewish population in Greece had been decimated by the Holocaust, and that only remnants of that once-thriving community remains there. However, as a traveler and tourist, I have been stuck by the difficulty in obtaining information about Jewish sites and Jewish history of Greece. I do not understand why one organization or resource does not reference another. Organizations that have websites or access to the Internet should have hypertext links to other Greek Jewish organizations, including e-mail links to facilities that may not yet have a website.

There should be a list of bibliographic references about Greek Jewry and Jewish tourist sites in Greece. When we were in the Jewish Museum of Greece shop in Athens, I was stunned to find an English language book about the Jews of Ionnina (Dalven, R., *The Jews of Ioannina*, Philadelphia, 1992). I purchased the book immediately! Likewise, it was through word of mouth from both Yitzhak Kerem (publisher of the electronic newsletter *Sefarad*) and Elias Messinas (editor of *Kol haKEHILA*) that I learned of the fascinating book written by Dr. Michael Matsas entitled *The Illusion of Safety: The story of the Greek Jews During the Second World War* (New York, 1997). In reading these books and in speaking with both Messinas and Kerem whom I recently met in Jerusalem, I understand that the Greek Jews, unlike Jews in some other parts of Europe, had ample opportunity to flee or hide from the Nazis. In instance after instance the warnings of the catastrophic consequences of not fleeing or hiding were not disseminated, or the seriousness of the situation was minimized. The communication among the communities was poor.

When we visited Rhodes, we stood on its acropolis and clearly saw the Turkish coast

only 11 miles away. It was difficult to come to terms with the complacency of the Jewish population of Rhodes in 1944 that resulted in their slaughter. They were among the last Greek Jews to be sent to Auschwitz. By 1944, other communities in Greece had already been eliminated. Safety lay only eleven miles away. The Jews of the city of Rhodes did not even flee to the island's countryside. Perhaps a reader can explain this puzzling apparent fact.

The lesson today seems clear. To preserve the remnants of the Greek Jewish heritage, various interested organizations should co-operate with the another. They should use electronic hypertext links to cross-reference one another whenever possible. The Jewish Museum of Greece in Athens should have information about Jewish sites throughout Greece, including other museums, such as the one in Rhodes. Likewise, the Jewish Museum of Rhodes should link to as many Jewish sites throughout Greece as possible. Books, bibliographies and brochures about Jewish sites throughout Greece should be made available at each of the sites and at Tourist Offices. Never again should the Jewish community of Greece be weakened by poor communication among various components. Certainly, not in this age of electronic communications and the Internet. There are some dedicated people working in disparate organizations to preserve and memorialize Greek Jewish sites and culture. Now they need to recognize the gestalt effect that would result from closer cooperation.

We came away from our experience wanting to learn more about the various communities that only existed in the past, and also those which continue to survive. We hope that others will become interested in exploring and preserving Jewish heritage in Greece. The best way to do this and to attract Jewish tourists is to make information about Jewish sites more readily available. We hope that the various organizations and interested parties will work together to that end.●

#### IN RECOGNITION OF THE FOURTH BIRTHDAY OF THE PROVIDENCE GAY MEN'S CHORUS

● Mr. REED. Mr. President, I rise today to pay tribute to the Providence Gay Men's Chorus, which celebrated its fourth anniversary on November 14, 1999. I would like to thank the Chorus for its four years of community involvement, during which time the members have shared not only their melodious voices with the citizens of Rhode Island, but also their hopes and ambitions for a better world.

The Providence Gay Men's Chorus, which began in 1995 as a group of eight, now has 50 members. In addition to their musical talent, one of the attributes that is most unique about the Chorus, and most appreciated, is the group's mission to promote tolerance. As we know, the real work of fostering support for people with diverse backgrounds and lifestyles usually happens slowly, and within the context of shared activities and community. The Providence Gay Men's Chorus reaches out with its concerts to expand the bounds of community. By helping to create an atmosphere of tolerance and understanding, their work benefits not only the citizens of Rhode Island, but ultimately the entire nation.

I am pleased to make it known that November 14, 1999 was not only the fourth anniversary of the Chorus, but also was declared Providence Gay Men's Chorus Day in the State of Rhode Island. Mr. President, I ask that a gubernatorial proclamation from the Governor of my home state of Rhode Island proclaiming November 14th as "Providence Gay Men's Chorus Day" be printed in the CONGRESSIONAL RECORD.

I join in the chorus of voices supporting the Providence Gay Men's Chorus' dual mission of creating beautiful music and promoting mutual respect and understanding. I know this talented musical group will continue its good work and I wish them many, many more birthdays.

The proclamation follows:

#### STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS—GUBERNATORIAL PROCLAMATION

Whereas, the Providence Gay Men's Chorus was first conceived in a karaoke bar in Providence in October 1995. The first meeting of its original eight members from Rhode Island and Massachusetts was held in November 1995, in a home in Pawtucket. The name Providence Gay Men's Chorus (PGMC) was decided on after some deliberation and the group was then underway with a music director and an accompanist; and,

Whereas, the mission of the PGMC is to provide and foster continuing growth of men's voices. Through the sharing of song concerts, the PGMC hopes to foster mutual understanding, tolerance and support of people with diverse backgrounds and lifestyles; and,

Whereas, the membership started to blossom during the first year and moved to St. James Episcopal Church in North Providence. During this year, the first board was also formed and the first concert was held in Warcham, Massachusetts with 12 members; and,

Whereas, the chorus kept growing and moved again. This time to the Bell Street Chapel in Providence, where the now 35-member chorus was performing two seasons per year with three concerts per season. It was at the Bell Street Chapel that the PGMC achieved their first sell out audience; and,

Whereas, as membership approached 40 members, the chorus moved once again to the First Unitarian Church in Providence. During this time, the PGMC joined the national choral organization for gay and lesbians called GALA and received its first corporate sponsorship; and,

Whereas, the chorus is now approaching its fourth birthday, has a membership of 50 and is back at the Bell Street Chapel. The members will be performing series of concerts in November, singing at First Night 2000, and initiating a scholarship program. Future plans for the chorus are to bring a program to the Hasbro's Children's Hospital, perform to mainstream audiences throughout the city and state, and attend the national GALA conferences; and,

Whereas, on November 14, 1999 the chorus will hold a concert at the Newport Congregational Church, under the direction of Charles Pietrello and the accompaniment of Bruce Ruby;

Now, therefore, I, Lincoln Almond, Governor of the State of Rhode Island and Providence Plantations, do hereby proclaim November 14, 1999, as Providence Gay Men's Chorus Day.●

# TRIBUTE TO WILLIAM AND OLENE DOYLE

• Mr. JEFFORDS. Mr. President, I am proud to stand before my colleagues today and pay tribute to a couple who have so positively influenced the people of Washington County, Vermont over the course of their lives. William and Olene Doyle will be honored as the Washington County Citizens of the Year by the Green Mountain Council of Boy Scouts on November 22nd, 1999.

My old friend Bill Doyle has navigated a well rounded career as a teacher, politician, and author. Since 1958, he has been teaching history and government at Johnson State College. In 1968, he was elected to serve as one of Washington County's three State Senators, a role in which he has thrived for over three decades. As a skilled teacher and a master of parliamentary rules, Bill has been an invaluable mentor and mediator in the Vermont State House. Bill has written two books, including *The Vermont Political Tradition*, which is regarded by many to be a "must read" on Vermont political history. He has also taken his passion for government and politics and created the annual "Doyle Poll," our yearly gauge of public opinion on the hottest and sometimes most controversial issues facing Vermonters. While admittedly unscientific, the poll's results are soundly reflective of Vermont sentiment.

As the son of an art teacher, I have always held a deep respect for the arts and for those who are able to inspire creativity in our nation's young people. Olene Doyle has taught art in elementary, secondary, and higher education institutions in the central Vermont region. Her dedication to arts and education led her to volunteer positions on the local school board in Montpelier, as well as on the board of the Wood Art Gallery, where, incidentally, I now hold the annual Congressional Arts Competition.

Bill and Olene raised three wonderful children. However, they have never stopped teaching as evidenced by their ongoing community service and involvement in their local church and non-profit organizations. Given the countless hours they dedicate to community service, it is noteworthy that the couple finds the time to pursue personal hobbies such as golf and gardening. And while I have never had the privilege of seeing the Doyle gardens, I have been told they are a vibrant reflection of the dedication which Bill and Olene give to everything they do.

I am thankful for the opportunity to express my heartfelt praise. I can think of few couples more worthy of this award. Years of partnership and devotion to each other have inevitably spilled over into the Vermont community, where Bill and Olene have truly made their mark as two of Vermont's most influential and giving people. •

# BRETT WAGNER ON RUSSIAN NUCLEAR MATERIALS

• Mr. KENNEDY. Mr. President, it is important that we remember how vital our nuclear nonproliferation programs with Russia are to our national security. That's why I was pleased, in recent weeks, to see two articles by Brett Wagner in the San Francisco Chronicle and in the Wall Street Journal, which I would like to submit for the RECORD.

Mr. Wagner is the president of the California Center for Strategic Studies, and his articles bring much needed attention to an essential aspect of our nuclear nonproliferation policy—to ensure that Russian weapons-grade, highly-enriched uranium does not fall into the wrong hands. We need to live up to our agreement with Russia and strengthen our nuclear, chemical and biological nonproliferation program with that nation. Our future could well depend on it.

I believe that Mr. Wagner's articles will be of interest to all of us in Congress who care about these issues, and I ask that they be printed in the RECORD.

The articles follow.

[From the San Francisco Chronicle, Oct. 22, 1999]

## U.S. MUST MOVE QUICKLY TO BUY RUSSIA'S EXCESS NUKES

(by Brett Wagner)

Without a doubt, what's been most frustrating about being a national security specialist in the 1990s has been urging that the United States buy the hundreds of tons of undersecured excess weapon-grade uranium scattered across Russia—only to repeatedly hear in response that this could never happen in the real world because of Washington's never-ending struggle to balance the federal budget.

My, how things change.

Today, Washington is awash in an unprecedented trillion-dollar budget surplus—a surplus expected to surpass \$100 billion in the next fiscal year alone.

Politicians from both major parties are busy, of course, debating what to do with all the extra money. Unfortunately, neither party has even mentioned Russia's offer to sell its enormous stockpiles of excess weapon-grade uranium to the United States as quickly as possible in exchange for badly needed hard currency.

Congressional and presidential priorities aside, it's hard to imagine a better time to reconsider this issue.

By now, almost everyone who reads the newspaper or watches the evening news knows that Russia has yet to develop any reliable means of securing its enormous stockpiles of weapon-grade uranium and plutonium. It doesn't even have an accounting system capable of keeping track of them.

And as the media often remind us, these materials have already begun leaking into the West—troubling news, to say the least, considering that:

The blueprints and non-nuclear components necessary to build crude but highly effective nuclear weapons are already widely available;

It only takes 20 or 30 pounds of highly enriched uranium to arm a device capable of leveling a city the size of downtown Washington;

Rogue states and terrorist groups openly hostile to the United States have already attempted several times to purchase nuclear

warheads or material from Russian nuclear workers;

There is no reliable way of keeping a nuclear weapon or contraband from being smuggled into U.S. territory if it ever does fall into the wrong hands.

What most people don't seem to remember, however, is that for several years now Russia has been trying to sell these same undersecured stockpiles of highly enriched uranium to the United States for use as nuclear fuel in commercial power plants and, what's more, that an agreement designed to help further this goal was signed by President Clinton and Russian leader Boris Yeltsin in February 1993.

Unfortunately, that agreement is a full year behind schedule, with shipments from 1993 through 1999 representing only 80 tons of highly enriched uranium—30 tons short of the minimum goal by the end of its seventh year in force. Moreover, even if the agreement were moving ahead at full speed, it would still cover only a fraction of Russia's excess weapon-grade uranium (500 of 1,200 tons), and none of its plutonium. A frustrated Russia can't understand why America wants to move so slowly.

Meanwhile, terrorism is spiraling out of control in and around Moscow, war is breaking out again in the Caucasus and the nuclear materials from thousands of dismantled Russian warheads continue to pile up in poorly protected makeshift warehouses scattered across several time zones, many of them far from the central government's watchful eye.

All of which begs the question: How long can things go on this way, before we run out of luck? Or, in other words, how long can Russia's hundreds of tons of missile materials be stored so haphazardly before small but significant amounts begin winding up in the hands of terrorists or rogue states?

The time has come for Washington to finally put its money where its mouth is and use part of the enormous budget surplus to purchase as much of Russia's fissile materials—both uranium and plutonium—as Moscow is willing to sell, and as quickly as Moscow is willing to sell them.

The case for taking such a bold step should be easy to make with the American people.

First, the sticker price would be remarkably low—less than \$20 billion. And since the U.S. government would presumably one day sell most or all of the uranium and plutonium for use as nuclear fuel, the expense would not have to be counted as an expense—an argument sure to resonate well with fiscal conservatives eager to keep pace with Gramm-Rudman.

Second, one could compare the price tag with the hundreds of billions of dollars America spent to defend itself and its allies against nuclear weapons during the Cold War; the trillion dollars of human life that would result if a small nuclear device were ever successfully detonated in a place such as downtown Washington; and the billions of dollars that rogue states and terrorist groups have already offered Russian nuclear workers for extremely small amounts of the same nuclear material.

And there is the tremendous sense of relief in purchasing the very stuff that for so long threatened America's very survival, and which now threatens the whole world.

With the 2000 election cycle beginning to pick up steam, and with the possibility of a viable third-party presidential candidate growing by the day, one would think that the two major parties would be scrambling to take the lead on this most serious of national Security issues.

[From the Wall Street Journal, Sept. 9, 1999]

# NUKES FOR SALE

(By Brett Wagner)

Strangely absent from the debate over how to spend Washington's projected \$1 trillion surplus has been any discussion of Russia's longstanding offer to sell its stockpiles of excess weapon-grade uranium. The time has come to take Russia up on this offer.

Russia has never developed a reliable system for protecting the enormous stockpiles of weapon-grade uranium and plutonium it inherited from the Soviet Union. These stockpiles are often stored in makeshift warehouses, some protected only by \$5 combination locks and soldiers who occasionally desert their posts in search of food. Small caches of these nuclear materials have already begun leaking out of Russia. It would only take 20 or 30 pounds of highly enriched uranium to arm a device capable of leveling a city the size of lower Manhattan.

In February 1993 Presidents Clinton and Boris Yeltsin signed an agreement for Russia to sell the U.S. highly enriched uranium extracted from its dismantled nuclear warheads in exchange for hard currency. Russia is currently dismantling thousands of warheads. Unfortunately, this unprecedented opportunity to advance U.S. and international security has fallen behind schedule at nearly every turn, primarily because Washington is constantly distracted by less important issues. So far Russia has shipped only 50.5 tons of highly enriched uranium—almost 30 tons short of the agreement's stated goal by this point.

One major holdup has been the U.S. enrichment Corp., a recently privatized company selected by the U.S. government to implement the American side of the accord. It has resisted accepting delivery of Russia's enriched uranium because, among other reasons, it claims that the materials are not pure enough for U.S. nuclear plants. But the corporation has a fundamental conflict of interest. Since it also produces enriched uranium, it wants to limit Russian competition in the international market.

The question is: How long do we have before we run out of luck? How long before some of Russia's uranium winds up in the hands of terrorists like Osama bin Laden or regimes like Saddam Hussein's?

Washington should switch the power of executive agent from the U.S. Enrichment Corp. to the Department of Energy. Given that most of the delays in implementing the agreement have stemmed from America's insistence that the highly enriched uranium be blended down into nuclear fuel in Russia, Washington should reverse this policy and accept Moscow's offer to ship its undiluted uranium directly to the U.S.

As soon as the agreement gets back on track, Washington should ask Moscow to expand it to include all of Russia's excess weapon-grade uranium, not to mention its excess plutonium. It makes no sense to purchase one stockpile of unsecured fissile material while leaving others in jeopardy.

The pricetag for such a deal would be remarkably low. The cost of purchasing 500 tons of Russia's highly enriched uranium, the quantity covered in the agreement, is approximately \$8 billion. Beyond what the agreement covers, Moscow has some 700 tons of additional weapons-grade uranium it has deemed "excess." That would increase the price to around \$19 billion. And for an additional \$1 billion or \$2 billion, Moscow would probably throw in its excess weapon-grade plutonium, which it has also been trying to sell for use as nuclear fuel.

With Russian parliamentary elections scheduled for later this year and a presidential election next June—which may well

bring in a government less friendly to the West than Mr. Yeltsin's—the time to act is now rather than later.●

## MORNING BUSINESS

Mr. MURKOWSKI. I ask consent that there be a period for the transaction of routine morning business, with any Senator permitted to speak for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## NATIONAL SALVAGE MOTOR VEHICLE CONSUMER PROTECTION ACT

Mr. LOTT. Mr. President, I am proud to add the American Automobile Association (AAA) and the California DMV to the long list of organizations that support S. 655, the National Salvage Motor Vehicle Consumer Protection Act that I introduced during this session to protect consumers from title fraud.

Other supporters of my title branding legislation include the American Association of Motor Vehicle Administrators (AAMVA), state DMV directors around the country, the Michigan Secretary of State and other Secretaries of State, the International Union of Police Associations AFL-CIO, International Association of Auto Theft Investigators, National Odometer and Title Fraud Enforcement Association, American Automobile Manufacturers Association, Association of International Automobile Manufacturers, National Automobile Dealers Association, National Association of Minority Automobile Dealers, National Independent Automobile Dealers Association, Honda North America, Nissan North America, Carfax, CarMax, American Service Industry Association, American Automotive Leasing Association, American Car Rental Association, American Salvage Pool Association, Automotive Engine Rebuilders Association, Automotive Parts and Accessories Association, Automotive Parts Rebuilders Association, National Association of Fleet Resale Dealers, National Auto Auction Association, and State Farm Insurance.

I also think it is worth recognizing 23 of our colleagues who have actively signaled their intention to protect motorists in their state and throughout the nation by formally supporting S. 655. Senators MCCAIN, BREAU, STEVENS, CONRAD, BURNS, HUTCHISON, FRIST, ABRAHAM, MACK, WARNER, BENNETT, SESSIONS, MURKOWSKI, SHELBY, INHOFE, GRAMS, THOMAS, ROBERTS, HATCH, THOMPSON, ENZI, KYL, and HUTCHINSON are to be commended for cosponsoring this important consumer protection measure.

The American Automobile Association represents over 40 million drivers. It is a nonpartisan organization that champions the interests of the driving public in virtually every city, county, and state across this great land. AAA

supports S. 655 because it shares my belief that national standards for titling salvage, rebuilt salvage, non-repairable and flood damaged vehicles will help prevent the fraudulent sale of damaged vehicles and protect consumers from unknowingly purchasing them. Mr. President, I ask unanimous consent to print AAA's letter of support for S. 655 in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AAA WASHINGTON OFFICE,  
Washington, DC, November 17, 1999.

Hon. TRENT LOTT,  
Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR LOTT: As a representative of 42 million motorists, AAA appreciates your effort to establish more uniformity in the titling and registration of salvage and other damaged vehicles.

AAA shares your concern about the practice of unscrupulous individuals buying damaged vehicles at low cost, rebuilding them, and then retitling them in another state with less or no protections. A "washed" title does not disclose previous damage to a vehicle and therefore, subsequent purchasers have no knowledge of the damage. Unwitting consumers are the victims of such fraudulent practices.

In an effort to help AAA members avoid the pitfalls of buying damaged or rebuilt vehicles, AAA provides tips on ways to identify damaged or flood vehicles. AAA also recommends that consumers have used cars checked for safety and reliability by a reputable auto technician before they purchase the vehicle.

Minimum standards for titling salvage, rebuilt salvage, non-repairable and flood-damaged vehicles will help present the fraudulent sale of damaged vehicles and protect consumers from unknowingly purchasing them. However, because states often have unique and various problems relating specifically to salvage vehicles, AAA believes states should be provided flexibility to enact stricter standards that address individual state concerns as your bill allows.

S. 655 represents an important step toward addressing the problem, while recognizing the legitimate role states have in motor vehicle licensing and titling laws. AAA commends your leadership in working with all parties to craft a workable solution and is pleased to support your bill.

Sincerely,

SUSAN G. PIKRALIDIS,  
Interim Vice President,  
Public & Government Relations.

Mr. LOTT. Mr. President, my goal from the outset has been to protect used car buyers from title fraud. The solution I proposed was simple, straightforward, and modeled after the recommendations of the Motor Vehicle Titling, Registration, and Salvage Advisory Committee. S. 655 merely establishes model uniform definitions and disclosure requirements for four basic terms: salvage; rebuilt salvage; flood; and nonrepairable vehicles. Under the legislation reported out by the Senate Commerce Committee, states would be free to utilize additional terms and to provide additional disclosures beyond those provided for in this bill. States that choose to adopt the four uniform terms and related provisions would be eligible for incentive grants. No state

would be penalized for non-participation or for retaining different standards.

While there is substantial and broad support for this much needed legislation, there continues to be resistance to moving forward with this legislation in the Senate. Unfortunately, this resistance has the effect of allowing unsuspecting consumers to continue to purchase and drive potentially life-threatening vehicles. Delaying this legislation will cost used car buyers another \$4 billion this year and place millions of structurally unsafe vehicles back on America's roads and highways. Roads that our family, friends, and neighbors share every day.

Even though S. 655 has wide-spread support and follows the recommendations of the Congressionally-chartered Salvage Advisory Committee, a few groups have attempted to undermine this measure at every stage of the process. Unfortunately, these groups seemed to have convinced some of my colleagues that it is better to delay the implementation of clearly needed consumer protections and continue to press for the imposition of untried, untested and in many cases anti-consumer requirements. Requirements that states have rejected time and again. Provisions that focus on post-purchase redress rather than pre-purchase disclosure. Definitions and standards that would perpetuate confusion rather than promote uniformity among the states, undermining the very purpose of this legislation. These groups claim to have the interests of consumers in mind, yet the best representative of car-buying consumers, the American Automobile Association, has rejected their approach and supports passage of S. 655.

As I am sure my colleagues will agree, advancing titling definitions and standards that states have rejected, and will continue to reject, will only exacerbate title fraud. Such an approach only benefits those who prey on unsuspecting car buyers and would jeopardize the minimum standards required to make the program work, unnecessarily harm many vehicle owners and buyers by needlessly reducing the value of their vehicles, create unreasonable or untested standards, foster unnecessary litigation, impinge on states rights, and promote a scheme that states will reject.

During the 104th and 105th Congresses, this was a bipartisan, better yet nonpartisan, initiative. My only interest has been to protect consumers by encouraging the use of minimal uniform disclosure standards for severely damaged vehicles—those involved in a serious accident, severely damaged by falling objects, or vehicles that have sustained significant and lingering water damage. Whether the used car buyer is in Mississippi, California, Nevada, Minnesota, or in any other state, he or she needs the pre-purchase disclosure information that S. 655 would provide.

I have made every effort to reach consensus on this legislation. In that vein, a number of changes were incorporated throughout the legislative process to address the concerns of State attorneys general, certain consumer groups, and many of my colleagues. The latest version of this legislation incorporates the full range of changes that DMV administrators, including California's Administrator, believe are practicable. The substitute makes it very clear that there is no preemption of state law. The substitute also mirrors much of the State of California's current titling requirements, ensuring that minimal change will be required by our largest state should it choose to apply for the bill's grant monies.

Mr. President, even though I have made numerous compromises on this legislation, the goal post continues to move further away. Instead of gaining acceptance, I was recently presented with yet another round of proposed modifications. AAMVA reviewed these proposed changes and determined they would eviscerate the purpose of this legislation. AAMVA opposes these additional changes because they could potentially harm the very people this legislation aims to protect, create a mountain of unnecessary paperwork, and would create a substantial amount of bureaucracy with no added value.

It makes no sense to adopt provisions that the experts on titling matters believe are harmful to used car consumers, the very people this balanced legislation aims to protect. AAMVA, Secretaries of State, local and state law enforcement, state legislators, and the automotive and insurance industries have repeatedly pronounced their support for S. 655. AAA and the California DMV also agree that my substitute bill is the right legislative solution.

Mr. President, if we do not pass this legislation, the real loser is the unfortunate used car buyer in these and other states who unknowingly purchases a wreck on wheels, perhaps a previously totaled government crash test vehicle. Every day that Congress fails to act on this prudent title branding legislation, thousands of individuals are harmed and millions of dollars are lost to the unscrupulous practice of title laundering. Let's pass this bill now.

S. 1949

Mr. LEAHY. Mr. President, I ask unanimous consent that the text of the bill, S. 1949, the "Clean Power Plant and Modernization Act," introduced on November 18, 1999, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1949

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Clean Power Plant and Modernization Act of 1999".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Definitions.
- Sec. 4. Combustion heat rate efficiency standards for fossil fuel-fired generating units.
- Sec. 5. Air emission standards for fossil fuel-fired generating units.
- Sec. 6. Extension of renewable energy production credit.
- Sec. 7. Megawatt hour generation fees.
- Sec. 8. Clean Air Trust Fund.
- Sec. 9. Accelerated depreciation for investor-owned generating units.
- Sec. 10. Grants for publicly owned generating units.
- Sec. 11. Recognition of permanent emission reductions in future climate change implementation programs.
- Sec. 12. Renewable and clean power generation technologies.
- Sec. 13. Clean coal, advanced gas turbine, and combined heat and power demonstration program.
- Sec. 14. Evaluation of implementation of this Act and other statutes.
- Sec. 15. Assistance for workers adversely affected by reduced consumption of coal.
- Sec. 16. Community economic development incentives for communities adversely affected by reduced consumption of coal.
- Sec. 17. Carbon sequestration.

#### SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the United States is relying increasingly on old, needlessly inefficient, and highly polluting powerplants to provide electricity;

(2) the pollution from those powerplants causes a wide range of health and environmental damage, including—

(A) fine particulate matter that is associated with the deaths of approximately 50,000 Americans annually;

(B) urban ozone, commonly known as "smog", that impairs normal respiratory functions and is of special concern to individuals afflicted with asthma, emphysema, and other respiratory ailments;

(C) rural ozone that obscures visibility and damages forests and wildlife;

(D) acid deposition that damages estuaries, lakes, rivers, and streams (and the plants and animals that depend on them for survival) and leaches heavy metals from the soil;

(E) mercury and heavy metal contamination that renders fish unsafe to eat, with especially serious consequences for pregnant women and their fetuses;

(F) eutrophication of estuaries, lakes, rivers, and streams; and

(G) global climate change that may fundamentally and irreversibly alter human, animal, and plant life;

(3) tax laws and environmental laws—

(A) provide a very strong incentive for electric utilities to keep old, dirty, and inefficient generating units in operation; and

(B) provide a strong disincentive to investing in new, clean, and efficient generating technologies;

(4) fossil fuel-fired power plants, consisting of plants fueled by coal, fuel oil, and natural gas, produce nearly two-thirds of the electricity generated in the United States;

(5) since, according to the Department of Energy, the average combustion heat rate efficiency of fossil fuel-fired power plants in

the United States is 33 percent, 67 percent of the heat generated by burning the fuel is wasted;

(6) technology exists to increase the combustion heat rate efficiency of coal combustion from 35 percent to 50 percent above current levels, and technological advances are possible that would boost the net combustion heat rate efficiency even more;

(7) coal-fired power plants are the leading source of mercury emissions in the United States, releasing an estimated 52 tons of this potent neurotoxin each year;

(8) in 1996, fossil fuel-fired power plants in the United States produced over 2,000,000,000 tons of carbon dioxide, the primary greenhouse gas;

(9) on average—

(A) fossil fuel-fired power plants emit 1,999 pounds of carbon dioxide for every megawatt hour of electricity produced;

(B) coal-fired power plants emit 2,110 pounds of carbon dioxide for every megawatt hour of electricity produced; and

(C) coal-fired power plants emit 205 pounds of carbon dioxide for every million British thermal units of fuel consumed;

(10) the average fossil fuel-fired generating unit in the United States commenced operation in 1964, 6 years before the Clean Air Act (42 U.S.C. 7401 et seq.) was amended to establish requirements for stationary sources;

(11)(A) according to the Department of Energy, only 23 percent of the 1,000 largest emitting units are subject to stringent new source performance standards under section 111 of the Clean Air Act (42 U.S.C. 7411); and

(B) the remaining 77 percent, commonly referred to as "grandfathered" power plants, are subject to much less stringent requirements;

(12) on the basis of scientific and medical evidence, exposure to mercury and mercury compounds is of concern to human health and the environment;

(13) pregnant women and their developing fetuses, women of childbearing age, and children are most at risk for mercury-related health impacts such as neurotoxicity;

(14) although exposure to mercury and mercury compounds occurs most frequently through consumption of mercury-contaminated fish, such exposure can also occur through—

(A) ingestion of breast milk;

(B) ingestion of drinking water, and foods other than fish, that are contaminated with methyl mercury; and

(C) dermal uptake through contact with soil and water;

(15) the report entitled "Mercury Study Report to Congress" and submitted by the Environmental Protection Agency under section 112(n)(1)(B) of the Clean Air Act (42 U.S.C. 7412(n)(1)(B)), in conjunction with other scientific knowledge, supports a plausible link between mercury emissions from combustion of coal and other fossil fuels and mercury concentrations in air, soil, water, and sediments;

(16)(A) the Environmental Protection Agency report described in paragraph (15) supports a plausible link between mercury emissions from combustion of coal and other fossil fuels and methyl mercury concentrations in freshwater fish;

(B) in 1997, 39 States issued health advisories that warned the public about consuming mercury-tainted fish, as compared to 27 States that issued such advisories in 1993; and

(C) the number of mercury advisories nationwide increased from 899 in 1993 to 1,675 in 1996, an increase of 86 percent;

(17) pollution from powerplants can be reduced through adoption of modern technologies and practices, including—

(A) methods of combusting coal that are intrinsically more efficient and less polluting, such as pressurized fluidized bed combustion and an integrated gasification combined cycle system;

(B) methods of combusting cleaner fuels, such as gases from fossil and biological resources and combined cycle turbines;

(C) treating flue gases through application of pollution controls;

(D) methods of extracting energy from natural, renewable resources of energy, such as solar and wind sources;

(E) methods of producing electricity and thermal energy from fuels without conventional combustion, such as fuel cells; and

(F) combined heat and power methods of extracting and using heat that would otherwise be wasted, for the purpose of heating or cooling office buildings, providing steam to processing facilities, or otherwise increasing total efficiency; and

(18) adopting the technologies and practices described in paragraph (17) would increase competitiveness and productivity, secure employment, save lives, and preserve the future.

(b) PURPOSES.—The purposes of this Act are—

(1) to protect and preserve the environment while safeguarding health by ensuring that each fossil fuel-fired generating unit minimizes air pollution to levels that are technologically feasible through modernization and application of pollution controls;

(2) to greatly reduce the quantities of mercury, carbon dioxide, sulfur dioxide, and nitrogen oxides entering the environment from combustion of fossil fuels;

(3) to permanently reduce emissions of those pollutants by increasing the combustion heat rate efficiency of fossil fuel-fired generating units to levels achievable through—

(A) use of commercially available combustion technology, including clean coal technologies such as pressurized fluidized bed combustion and an integrated gasification combined cycle system;

(B) installation of pollution controls;

(C) expanded use of renewable and clean energy sources such as biomass, geothermal, solar, wind, and fuel cells; and

(D) promotion of application of combined heat and power technologies;

(4)(A) to create financial and regulatory incentives to retire thermally inefficient generating units and replace them with new units that employ high-thermal-efficiency combustion technology; and

(B) to increase use of renewable and clean energy sources such as biomass, geothermal, solar, wind, and fuel cells;

(5) to establish the Clean Air Trust Fund to fund the training, economic development, carbon sequestration, and research, development, and demonstration programs established under this Act;

(6) to eliminate the "grandfather" loophole in the Clean Air Act relating to sources in operation before the promulgation of standards under section 111 of that Act (42 U.S.C. 7411);

(7) to express the sense of Congress that permanent reductions in emissions of greenhouse gases that are accomplished through the retirement of old units and replacement by new units that meet the combustion heat rate efficiency and emission standards specified in this Act should be credited to the utility sector and the owner or operator in any climate change implementation program;

(8) to promote permanent and safe disposal of mercury recovered through coal cleaning, flue gas control systems, and other methods of mercury pollution control;

(9) to increase public knowledge of the sources of mercury exposure and the threat to public health from mercury, particularly the threat to the health of pregnant women and their fetuses, women of childbearing age, and children;

(10) to decrease significantly the threat to human health and the environment posed by mercury;

(11) to provide worker retraining for workers adversely affected by reduced consumption of coal; and

(12) to provide economic development incentives for communities adversely affected by reduced consumption of coal.

### SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) GENERATING UNIT.—The term "generating unit" means an electric utility generating unit.

### SEC. 4. COMBUSTION HEAT RATE EFFICIENCY STANDARDS FOR FOSSIL FUEL-FIRED GENERATING UNITS.

(a) STANDARDS.—

(1) IN GENERAL.—Not later than the day that is 10 years after the date of enactment of this Act, each fossil fuel-fired generating unit that commences operation on or before that day shall achieve and maintain, at all operating levels, a combustion heat rate efficiency of not less than 45 percent (based on the higher heating value of the fuel).

(2) FUTURE GENERATING UNITS.—Each fossil fuel-fired generating unit that commences operation more than 10 years after the date of enactment of this Act shall achieve and maintain, at all operating levels, a combustion heat rate efficiency of not less than 50 percent (based on the higher heating value of the fuel), unless granted a waiver under subsection (d).

(b) TEST METHODS.—Not later than 2 years after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Energy, shall promulgate methods for determining initial and continuing compliance with this section.

(c) PERMIT REQUIREMENT.—Not later than 10 years after the date of enactment of this Act, each generating unit shall have a permit issued under title V of the Clean Air Act (42 U.S.C. 7661 et seq.) that requires compliance with this section.

(d) WAIVER OF COMBUSTION HEAT RATE EFFICIENCY STANDARD.—

(1) APPLICATION.—The owner or operator of a generating unit that commences operation more than 10 years after the date of enactment of this Act may apply to the Administrator for a waiver of the combustion heat rate efficiency standard specified in subsection (a)(2) that is applicable to that type of generating unit.

(2) ISSUANCE.—The Administrator may grant the waiver only if—

(A)(i) the owner or operator of the generating unit demonstrates that the technology to meet the combustion heat rate efficiency standard is not commercially available; or

(ii) the owner or operator of the generating unit demonstrates that, despite best technical efforts and willingness to make the necessary level of financial commitment, the combustion heat rate efficiency standard is not achievable at the generating unit; and

(B) the owner or operator of the generating unit enters into an agreement with the Administrator to offset by a factor of 1.5 to 1, using a method approved by the Administrator, the emission reductions that the generating unit does not achieve because of the failure to achieve the combustion heat rate efficiency standard specified in subsection (a)(2).

(3) EFFECT OF WAIVER.—If the Administrator grants a waiver under paragraph (1), the generating unit shall be required to achieve and maintain, at all operating levels, the combustion heat rate efficiency standard specified in subsection (a)(1).

#### SEC. 5. AIR EMISSION STANDARDS FOR FOSSIL FUEL-FIRED GENERATING UNITS.

(a) ALL FOSSIL FUEL-FIRED GENERATING UNITS.—Not later than 10 years after the date of enactment of this Act, each fossil fuel-fired generating unit, regardless of its date of construction or commencement of operation, shall be subject to, and operating in physical and operational compliance with, the new source review requirements under section 111 of the Clean Air Act (42 U.S.C. 7411).

(b) EMISSION RATES FOR SOURCES REQUIRED TO MAINTAIN 45 PERCENT EFFICIENCY.—Not later than 10 years after the date of enactment of this Act, each fossil fuel-fired generating unit subject to section 4(a)(1) shall be in compliance with the following emission limitations:

(1) MERCURY.—Each coal-fired or fuel oil-fired generating unit shall be required to remove 90 percent of the mercury contained in the fuel, calculated in accordance with subsection (e).

(2) CARBON DIOXIDE.—

(A) NATURAL GAS-FIRED GENERATING UNITS.—Each natural gas-fired generating unit shall be required to achieve an emission rate of not more than 0.9 pounds of carbon dioxide per kilowatt hour of net electric power output.

(B) FUEL OIL-FIRED GENERATING UNITS.—Each fuel oil-fired generating unit shall be required to achieve an emission rate of not more than 1.3 pounds of carbon dioxide per kilowatt hour of net electric power output.

(C) COAL-FIRED GENERATING UNITS.—Each coal-fired generating unit shall be required to achieve an emission rate of not more than 1.55 pounds of carbon dioxide per kilowatt hour of net electric power output.

(3) SULFUR DIOXIDE.—Each fossil fuel-fired generating unit shall be required—

(A) to remove 95 percent of the sulfur dioxide that would otherwise be present in the flue gas; and

(B) to achieve an emission rate of not more than 0.3 pounds of sulfur dioxide per million British thermal units of fuel consumed.

(4) NITROGEN OXIDES.—Each fossil fuel-fired generating unit shall be required—

(A) to remove 90 percent of nitrogen oxides that would otherwise be present in the flue gas; and

(B) to achieve an emission rate of not more than 0.15 pounds of nitrogen oxides per million British thermal units of fuel consumed.

(c) EMISSION RATES FOR SOURCES REQUIRED TO MAINTAIN 50 PERCENT EFFICIENCY.—Each fossil fuel-fired generating unit subject to section 4(a)(2) shall be in compliance with the following emission limitations:

(1) MERCURY.—Each coal-fired or fuel oil-fired generating unit shall be required to remove 90 percent of the mercury contained in the fuel, calculated in accordance with subsection (e).

(2) CARBON DIOXIDE.—

(A) NATURAL GAS-FIRED GENERATING UNITS.—Each natural gas-fired generating unit shall be required to achieve an emission rate of not more than 0.8 pounds of carbon dioxide per kilowatt hour of net electric power output.

(B) FUEL OIL-FIRED GENERATING UNITS.—Each fuel oil-fired generating unit shall be required to achieve an emission rate of not more than 1.2 pounds of carbon dioxide per kilowatt hour of net electric power output.

(C) COAL-FIRED GENERATING UNITS.—Each coal-fired generating unit shall be required to achieve an emission rate of not more than

1.4 pounds of carbon dioxide per kilowatt hour of net electric power output.

(3) SULFUR DIOXIDE.—Each fossil fuel-fired generating unit shall be required—

(A) to remove 95 percent of the sulfur dioxide that would otherwise be present in the flue gas; and

(B) to achieve an emission rate of not more than 0.3 pounds of sulfur dioxide per million British thermal units of fuel consumed.

(4) NITROGEN OXIDES.—Each fossil fuel-fired generating unit shall be required—

(A) to remove 90 percent of nitrogen oxides that would otherwise be present in the flue gas; and

(B) to achieve an emission rate of not more than 0.15 pounds of nitrogen oxides per million British thermal units of fuel consumed.

(d) PERMIT REQUIREMENT.—Not later than 10 years after the date of enactment of this Act, each generating unit shall have a permit issued under title V of the Clean Air Act (42 U.S.C. 7661 et seq.) that requires compliance with this section.

(e) COMPLIANCE DETERMINATION AND MONITORING.—

(1) REGULATIONS.—Not later than 2 years after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Energy, shall promulgate methods for determining initial and continuing compliance with this section.

(2) CALCULATION OF MERCURY EMISSION REDUCTIONS.—Not later than 2 years after the date of enactment of this Act, the Administrator shall promulgate fuel sampling techniques and emission monitoring techniques for use by generating units in calculating mercury emission reductions for the purposes of this section.

(3) REPORTING.—

(A) IN GENERAL.—Not less than once a quarter, the owner or operator of a generating unit shall submit a pollutant-specific emission report for each pollutant covered by this section.

(B) SIGNATURE.—Each report required under subparagraph (A) shall be signed by a responsible official of the generating unit, who shall certify the accuracy of the report.

(C) PUBLIC REPORTING.—The Administrator shall annually make available to the public, through 1 or more published reports and 1 or more forms of electronic media, facility-specific emission data for each generating unit and pollutant covered by this section.

(D) CONSUMER DISCLOSURE.—Not later than 2 years after the date of enactment of this Act, the Administrator shall promulgate regulations requiring each owner or operator of a generating unit to disclose to residential consumers of electricity generated by the unit, on a regular basis (but not less often than annually) and in a manner convenient to the consumers, data concerning the level of emissions by the generating unit of each pollutant covered by this section and each air pollutant covered by section 111 of the Clean Air Act (42 U.S.C. 7411).

(f) DISPOSAL OF MERCURY CAPTURED OR RECOVERED THROUGH EMISSION CONTROLS.—

(1) CAPTURED OR RECOVERED MERCURY.—Not later than 2 years after the date of enactment of this Act, the Administrator shall promulgate regulations to ensure that mercury that is captured or recovered through the use of an emission control, coal cleaning, or another method is disposed of in a manner that ensures that—

(A) the hazards from mercury are not transferred from 1 environmental medium to another; and

(B) there is no release of mercury into the environment.

(2) MERCURY-CONTAINING SLUDGES AND WASTES.—The regulations promulgated by the Administrator under paragraph (1) shall ensure that mercury-containing sludges and

wastes are handled and disposed of in accordance with all applicable Federal and State laws (including regulations).

(g) PUBLIC REPORTING OF FACILITY-SPECIFIC EMISSION DATA.—

(1) IN GENERAL.—The Administrator shall annually make available to the public, through 1 or more published reports and the Internet, facility-specific emission data for each generating unit and for each pollutant covered by this section.

(2) SOURCE OF DATA.—The emission data shall be taken from the emission reports submitted under subsection (e)(3).

#### SEC. 6. EXTENSION OF RENEWABLE ENERGY PRODUCTION CREDIT.

Section 45(c) of the Internal Revenue Code of 1986 (relating to definitions) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking “and”; (B) in subparagraph (B), by striking the period and inserting “, and”; and

(C) by adding at the end the following:

“(C) solar power.”;

(2) in paragraph (3)—

(A) by inserting “, and December 31, 1998, in the case of a facility using solar power to produce electricity” after “electricity”; and (B) by striking “1999” and inserting “2010”; and

(3) by adding at the end the following:

“(4) SOLAR POWER.—The term ‘solar power’ means solar power harnessed through—

“(A) photovoltaic systems,

“(B) solar boilers that provide process heat, and

“(C) any other means.”.

#### SEC. 7. MEGAWATT HOUR GENERATION FEES.

(a) IN GENERAL.—Chapter 38 of the Internal Revenue Code of 1986 (relating to miscellaneous excise taxes) is amended by inserting after subchapter D the following:

##### “Subchapter E—Megawatt Hour Generation Fees

“Sec. 4691. Imposition of fees.

“SEC. 4691. IMPOSITION OF FEES.

“(a) TAX IMPOSED.—There is hereby imposed on each covered fossil fuel-fired generating unit a tax equal to 30 cents per megawatt hour of electricity produced by the covered fossil fuel-fired generating unit.

“(b) ADJUSTMENT OF RATES.—Not less often than once every 2 years beginning after 2002, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall evaluate the rate of the tax imposed by subsection (a) and increase the rate if necessary for any succeeding calendar year to ensure that the Clean Air Trust Fund established by section 9511 has sufficient amounts to fully fund the activities described in section 9511(c).

“(c) PAYMENT OF TAX.—The tax imposed by this section shall be paid quarterly by the owner or operator of each covered fossil fuel-fired generating unit.

“(d) COVERED FOSSIL FUEL-FIRED GENERATING UNIT.—The term ‘covered fossil fuel-fired generating unit’ means an electric utility generating unit that—

“(1) is powered by fossil fuels;

“(2) has a generating capacity of 5 or more megawatts; and

“(3) because of the date on which the generating unit commenced commercial operation, is not subject to all regulations promulgated under section 111 of the Clean Air Act (42 U.S.C. 7411).”.

(b) CONFORMING AMENDMENT.—The table of subchapters for such chapter 38 is amended by inserting after the item relating to subchapter D the following:

“SUBCHAPTER E. Megawatt hour generation fees.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity produced in calendar years beginning after December 31, 2000.



**SEC. 8. CLEAN AIR TRUST FUND.**

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following:

**"SEC. 9511. CLEAN AIR TRUST FUND.**

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Clean Air Trust Fund' (hereafter referred to in this section as the 'Trust Fund'), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Trust Fund amounts equivalent to the taxes received in the Treasury under section 4691.

"(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Trust Fund shall be available, without further Act of appropriation, upon request by the head of the appropriate Federal agency in such amounts as the agency head determines are necessary—

"(1) to provide funding under section 12 of the Clean Power Plant and Modernization Act of 1999, as in effect on the date of enactment of this section;

"(2) to provide funding for the demonstration program under section 13 of such Act, as so in effect;

"(3) to provide assistance under section 15 of such Act, as so in effect;

"(4) to provide assistance under section 16 of such Act, as so in effect; and

"(5) to provide funding under section 17 of such Act, as so in effect."

(b) CONFORMING AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end the following:

"Sec. 9511. Clean Air Trust Fund."

**SEC. 9. ACCELERATED DEPRECIATION FOR INVESTOR-OWNED GENERATING UNITS.**

(a) IN GENERAL.—Section 168(e)(3) of the Internal Revenue Code of 1986 (relating to classification of certain property) is amended—

(1) in subparagraph (E) (relating to 15-year property), by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following:

"(iv) any 45-percent efficient fossil fuel-fired generating unit."; and

(2) by adding at the end the following:

"(F) 12-YEAR PROPERTY.—The term '12-year property' includes any 50-percent efficient fossil fuel-fired generating unit."

(b) DEFINITIONS.—Section 168(i) of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by adding at the end the following:

"(15) FOSSIL FUEL-FIRED GENERATING UNITS.—

"(A) 50-PERCENT EFFICIENT FOSSIL FUEL-FIRED GENERATING UNIT.—The term '50-percent efficient fossil fuel-fired generating unit' means any property used in an investor-owned fossil fuel-fired generating unit pursuant to a plan approved by the Secretary, in consultation with the Administrator of the Environmental Protection Agency, to place into service such a unit that is in compliance with sections 4(a)(2) and 5(c) of the Clean Power Plant and Modernization Act of 1999, as in effect on the date of enactment of this paragraph.

"(B) 45-PERCENT EFFICIENT FOSSIL FUEL-FIRED GENERATING UNIT.—The term '45-percent efficient fossil fuel-fired generating unit' means any property used in an investor-owned fossil fuel-fired generating unit pursuant to a plan so approved to place into service such a unit that is in compliance with sections 4(a)(1) and 5(b) of such Act, as so in effect."

(c) CONFORMING AMENDMENT.—The table contained in section 168(c) of the Internal

Revenue Code of 1986 (relating to applicable recovery period) is amended by inserting after the item relating to 10-year property the following:

"12-year property ..... 12 years".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property used after the date of enactment of this Act.

**SEC. 10. GRANTS FOR PUBLICLY OWNED GENERATING UNITS.**

Any capital expenditure made after the date of enactment of this Act to purchase, install, and bring into commercial operation any new publicly owned generating unit that—

(1) is in compliance with sections 4(a)(1) and 5(b) shall, for a 15-year period, be eligible for partial reimbursement through annual grants made by the Secretary of the Treasury, in consultation with the Administrator, in an amount equal to the monetary value of the depreciation deduction that would be realized by reason of section 168(c)(3)(E) of the Internal Revenue Code of 1986 by a similarly-situated investor-owned generating unit over that period; and

(2) is in compliance with sections 4(a)(2) and 5(c) shall, over a 12-year period, be eligible for partial reimbursement through annual grants made by the Secretary of the Treasury, in consultation with the Administrator, in an amount equal to the monetary value of the depreciation deduction that would be realized by reason of section 168(c)(3)(D) of such Code by a similarly-situated investor-owned generating unit over that period.

**SEC. 11. RECOGNITION OF PERMANENT EMISSION REDUCTIONS IN FUTURE CLIMATE CHANGE IMPLEMENTATION PROGRAMS.**

It is the sense of Congress that—

(1) permanent reductions in emissions of carbon dioxide and nitrogen oxides that are accomplished through the retirement of old generating units and replacement by new generating units that meet the combustion heat rate efficiency and emission standards specified in this Act, or through replacement of old generating units with nonpolluting renewable power generation technologies, should be credited to the utility sector, and to the owner or operator that retires or replaces the old generating unit, in any climate change implementation program enacted by Congress;

(2) the base year for calculating reductions under a program described in paragraph (1) should be the calendar year preceding the calendar year in which this Act is enacted; and

(3) a reasonable portion of any monetary value that may accrue from the crediting described in paragraph (1) should be passed on to utility customers.

**SEC. 12. RENEWABLE AND CLEAN POWER GENERATION TECHNOLOGIES.**

(a) IN GENERAL.—Under the Renewable Energy and Energy Efficiency Technology Act of 1989 (42 U.S.C. 12001 et seq.), the Secretary of Energy shall fund research and development programs and commercial demonstration projects and partnerships to demonstrate the commercial viability and environmental benefits of electric power generation from—

(1) biomass (excluding unseparated municipal solid waste), geothermal, solar, and wind technologies; and

(2) fuel cells.

(b) TYPES OF PROJECTS.—Demonstration projects may include solar power tower plants, solar dishes and engines, co-firing of biomass with coal, biomass modular systems, next-generation wind turbines and

wind turbine verification projects, geothermal energy conversion, and fuel cells.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts made available under any other law, there is authorized to be appropriated to carry out this section \$75,000,000 for each of fiscal years 2001 through 2010.

**SEC. 13. CLEAN COAL, ADVANCED GAS TURBINE, AND COMBINED HEAT AND POWER DEMONSTRATION PROGRAM.**

(a) IN GENERAL.—Under subtitle B of title XXI of the Energy Policy Act of 1992 (42 U.S.C. 13471 et seq.), the Secretary of Energy shall establish a program to fund projects and partnerships designed to demonstrate the efficiency and environmental benefits of electric power generation from—

(1) clean coal technologies, such as pressurized fluidized bed combustion and an integrated gasification combined cycle system;

(2) advanced gas turbine technologies, such as flexible midsize gas turbines and base-load utility scale applications; and

(3) combined heat and power technologies.

(b) SELECTION CRITERIA.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall promulgate criteria and procedures for selection of demonstration projects and partnerships to be funded under subsection (a).

(2) REQUIRED CRITERIA.—At a minimum, the selection criteria shall include—

(A) the potential of a proposed demonstration project or partnership to reduce or avoid emissions of pollutants covered by section 5 and air pollutants covered by section 111 of the Clean Air Act (42 U.S.C. 7411); and

(B) the potential commercial viability of the proposed demonstration project or partnership.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to amounts made available under any other law, there is authorized to be appropriated to carry out this section \$75,000,000 for each of fiscal years 2001 through 2010.

(2) DISTRIBUTION.—The Secretary shall make reasonable efforts to ensure that, under the program established under this section, the same amount of funding is provided for demonstration projects and partnerships under each of paragraphs (1), (2), and (3) of subsection (a).

**SEC. 14. EVALUATION OF IMPLEMENTATION OF THIS ACT AND OTHER STATUTES.**

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of Energy, in consultation with the Chairman of the Federal Energy Regulatory Commission and the Administrator, shall submit to Congress a report on the implementation of this Act.

(b) IDENTIFICATION OF CONFLICTING LAW.—The report shall identify any provision of the Energy Policy Act of 1992 (Public Law 102-486), the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.), or the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq.), or the amendments made by those Acts, that conflicts with the intent or efficient implementation of this Act.

(c) RECOMMENDATIONS.—The report shall include recommendations from the Secretary of Energy, the Chairman of the Federal Energy Regulatory Commission, and the Administrator for legislative or administrative measures to harmonize and streamline the statutes specified in subsection (b) and the regulations implementing those statutes.

**SEC. 15. ASSISTANCE FOR WORKERS ADVERSELY AFFECTED BY REDUCED CONSUMPTION OF COAL.**

In addition to amounts made available under any other law, there is authorized to



be appropriated \$75,000,000 for each of fiscal years 2001 through 2015 to provide assistance, under the economic dislocation and worker adjustment assistance program of the Department of Labor authorized by title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.), to coal industry workers who are terminated from employment as a result of reduced consumption of coal by the electric power generation industry.

**SEC. 16. COMMUNITY ECONOMIC DEVELOPMENT INCENTIVES FOR COMMUNITIES ADVERSELY AFFECTED BY REDUCED CONSUMPTION OF COAL.**

In addition to amounts made available under any other law, there is authorized to be appropriated \$75,000,000 for each of fiscal years 2001 through 2015 to provide assistance, under the economic adjustment program of the Department of Commerce authorized by the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.), to assist communities adversely affected by reduced consumption of coal by the electric power generation industry.

**SEC. 17. CARBON SEQUESTRATION.**

(a) **CARBON SEQUESTRATION STRATEGY.**—In addition to amounts made available under any other law, there is authorized to be appropriated to the Environmental Protection Agency and the Department of Energy for each of fiscal years 2001 through 2003 a total of \$15,000,000 to conduct research and development activities in basic and applied science in support of development by September 30, 2003, of a carbon sequestration strategy that is designed to offset all growth in carbon dioxide emissions in the United States after 2010.

(b) **METHODS FOR BIOLOGICALLY SEQUESTERING CARBON DIOXIDE.**—In addition to amounts made available under any other law, there is authorized to be appropriated to the Environmental Protection Agency and the Department of Agriculture for each of fiscal years 2001 through 2010 a total of \$30,000,000 to carry out soil restoration, tree planting, wetland protection, and other methods of biologically sequestering carbon dioxide.

(c) **LIMITATION.**—A project carried out using funds made available under this section shall not be used to offset any emission reduction required under any other provision of this Act.

**THE RUSSIAN LEADERSHIP PROGRAM**

Mr. STEVENS. Mr. President, I am pleased to announce that Congress included \$10 million in the Foreign Operations Appropriations bill to continue the Russian Leadership Program in Fiscal Year 2000.

The Russian Leadership Program was created earlier this year in the FY 1999 supplemental appropriations bill in order to bring emerging Russian leaders to the United States to see first hand how democracy and the American free market economic system function. The program was successful in bringing over 2,100 emerging leaders from 83 of the 89 states and republics in the Russian Federation during July, August, and September of this year. Dr. Billington, the Librarian of Congress, and one of the world's leading historians of Russian culture was asked to administer this program. Our thanks go to Dr. Billington for doing an excellent job implementing this program in a short period of time.

The program was modeled after the Marshall Plan which was implemented after World War II. Between 1946–1956, the U.S. Government brought over 10,000 Germans citizens to the United States to learn ways to rebuild their economy through technical assistance as well as cultural and political contacts. The Marshall Plan was one of the most successful foreign aid programs of the last century.

Similar to the Marshall Plan, participants in the Russian Leadership Program visited more than 400 communities in 46 states and the District of Columbia observing democracy in action at all levels of government. They met and discussed the American system of government with current and former U.S. Presidents, Members of the U.S. Senate and U.S. House, Governors, state legislators, state supreme court justices, mayors, and members of city and town councils.

Some of the participants also campaigned door-to-door with political candidates, visited police and fire stations, met with students in schools, visited hospitals, research facilities, businesses, soup kitchens, shelters and experienced firsthand the partnership among government, and the private sector.

This program was unique because more than 800 American families hosted our Russian visitors, welcoming them into their homes and communities, and spending the time to answer questions about and show our guests the American way of life. Vadim Baikov, one of the six Russians who visited Alaska, the State I represent, wrote after the program that, "In my opinion, the best cultural aspect is that we stayed with the families, because in this way one can actually gain insight of the genuine American lifestyle. I think that is what counts the most."

Organizations such as Rotary International, the United Methodist Church, Freedom Force, and the Church of Jesus Christ of Latter-day Saints played a key role in organizing the participants in the program both in Russia and the United States. In addition to volunteering their time, these families and hosting communities generously supplemented the government's \$10 million appropriations by providing approximately \$1.5 million worth of meals, cultural activities, additional transportation and medical care.

Beyond the strong ties of friendship that developed between guests and hosts, it is clear that the Russian Leadership Program fundamentally changed how these Russian guests see America. They constitute the largest single group ever to travel from Russia to the U.S. They return to Russia with clear ideas and strong commitment to positive change. A mayor from Tomsk spend time with the mayor of Cleveland and said: "If we were to meet more often, there would be more peaceful relations."

The Russian Leadership Program has had a tremendous impact in one year.

It is a good program and I am pleased that we were able to provide the necessary funding to continue this program into the new millenium.

**INTELLECTUAL PROPERTY AND COMMUNICATIONS OMNIBUS REFORM ACT OF 1999**

Mr. SCHUMER. Mr. President, I rise today in support of the revised "Intellectual Property and Communications Omnibus Reform Act of 1999" (H.R. 1554). As a Member of the Judiciary Committee, I am particularly pleased that this legislation includes as Title IV, the "American Inventors Protection Act of 1999." This important patent reform measure includes a series of initiatives intended to protect the rights of inventors, enhance patent protections and reduce patent litigation.

Perhaps most importantly, subtitle C of title IV contains the so-called "First Inventor Defense." This defense provides a first inventor (or "prior user") with a defense in patent infringement lawsuits, whenever an inventor of a business method (i.e., a practice process or system) uses the invention but does not patent it. Currently, patent law does not provide original inventors with any protections when a subsequent user, who patents the method at a later date, files a lawsuit for infringement against the real creator of the invention.

The first inventor defense will provide the financial services industry with important, needed protections in the face of the uncertainty presented by the Federal Circuit's decision in the State Street case. *State Street Bank and Trust Company v. Signature Financial Group, Inc.* 149 F.3d 1368 (Fed. Cir., 1998). In State Street, the Court did away with the so-called "business methods" exception to statutory patentable subject matter. Consequently, this decision has raised questions about what types of business methods may now be eligible for patent protection. In the financial services sector, this has prompted serious legal and practical concerns. It has created doubt regarding whether or not particular business methods used by the industry—including processes, practices, and systems—might now suddenly become subject to new claims under the patent law. In terms of everyday business practice, these types of activities were considered to be protected as trade secrets and were not viewed as patentable material.

The first inventor defense strikes a fair balance between patent and trade secret law. Specifically, this provision creates a defense for inventors who (1) acting in good faith have reduced the subject matter to practice in the United States at least one year prior to the patent filing date ("effective filing date") of another (typically later) inventor; and (2) commercially used the subject matter in the United States before the filing date of the patent. Commercial use does not require that the

particular invention be made known to the public or be used in the public marketplace—it includes wholly internal commercial uses as well.

As used in this legislation, the term “method” is intended to be construed broadly. The term “method” is defined as meaning “a method of doing or conducting business.” Thus, “method” includes any internal method of doing business, a method used in the course of doing or conducting business, or a method for conducting business in the public marketplace. It includes a practice, process, activity, or system that is used in the design, formulation, testing, or manufacture of any product or service. The defense will be applicable against method claims, as well as the claims involving machines or articles the manufacturer used to practice such methods (i.e., apparatus claims). New technologies are being developed every day, which include technology that employs both methods of doing business and physical apparatus designed to carry out a method of doing business. The first inventor defense is intended to protect both method claims and apparatus claims.

When viewed specifically from the standpoint of the financial services industry, the term “method” includes financial instruments, financial products, financial transactions, the ordering of financial information, and any system or process that transmits or transforms information with respect to investments or other types of financial transactions. In this context, it is important to point out the beneficial effects that such methods have brought to our society. These include the encouragement of home ownership, the broadened availability of capital for small businesses, and the development of a variety of pension and investment opportunities for millions of Americans.

As the joint explanatory statement of the Conference Committee on H.R. 1554 notes, the provision “focuses on methods for doing and conducting business, including methods used in connection with internal commercial operations as well as those used in connection with the sale or transfer of useful end results—whether in the form of physical products, or in the form of services, or in the form of some other useful results; for example, results produced to the manipulation of data or other imports to produce a useful result.” H. Rept. 106– , p. 31.

The language of the provision states that the defense is not available if the person has actually abandoned com-

mercial use of the subject matter. As used in the legislation, abandonment refers to the cessation of use with no intent to resume. Intervals of non-use between such periodic or cyclical activities such as seasonable factors or reasonable intervals between contracts, however, should not be considered to be abandonment.

As noted earlier, in the wake of State Street, thousands of methods and processes that have been and are used internally are now subject to the possibility of being claimed as patented inventions. Previously, the businesses that developed and used such methods and processes thought that secrecy was the only protection available. As the conference report on H.R. 1554 states: “(U)nder established law, any of these inventions which have been in commercial use—public or secret—for more than one year cannot now be the subject of a valid U.S. patent.” H. Rept. 106– , p. 31.

Mr. President, patent law should encourage innovation, not create barriers to the development of innovative financial products, credit vehicles, and e-commerce generally. The patent law was never intended to prevent people from doing what they are already doing. While I am very pleased that the first inventors defense is included in H.R. 1554, it should be viewed as just the first step in defining the appropriate limits and boundaries of the State Street decision. This legal defense will provide important protections for companies against unfair and unjustified patent infringement actions. But, at the same time, I believe that it is time for Congress to take a closer look at the potentially broad and, perhaps, adverse consequences of the State Street decision. I hope that beginning early next year the Judiciary Committee will hold hearings on the State Street issue, so Senators can carefully evaluate its economic and competitive consequences.

Mr. TORRICELLI. My colleague is correct. The State Street decision may have unintended consequences for the financial services community. By explicitly holding that business methods are patentable, financial service companies are finding that the techniques and ideas, that were in wide use, are being patented by others.

The Prior Inventor Defense of H.R. 1554 is an important step towards protecting the financial services industry. By protecting early developers and users of a business method, the defense allows U.S. companies to commit resources to the commercialization of their inventions with confidence that a

subsequent patent holder will prevail in a patent infringement suit. Without this defense, financial services companies face unfair patent-infringement suits over the use of techniques and ideas (methods) they developed and have used for years.

While I support the Prior Inventor Defense, as a member of the Judiciary Committee, I hope we will revisit this issue next year. More must be done to address the boundaries of the State Street decision with the realities of the constantly changing and developing financial services industry.

I look forward to working with Senator SCHUMER and my colleagues on the committee on this important issue.

#### ORDERS FOR FRIDAY, NOVEMBER 19, 1999

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10 a.m. on Friday, November 19. I further ask consent that on Friday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and that the Senate then proceed to morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. MURKOWSKI. For the information of all Senators, when the Senate convenes, it will begin consideration of a number of legislative items that have been cleared for action and need to be considered in the House prior to adjournment. Following the consideration of these bills, the Senate will resume debate on the final appropriations bill. Further, as a reminder, cloture was filed today on the appropriations conference report, and there is still hope that the Wisconsin delegation will allow the cloture vote to occur at a reasonable hour during tomorrow's session. However, if no agreement is made, the cloture vote will occur at 1:01 a.m. on Saturday morning, and abbreviated postcloture debate is anticipated. Therefore, Senators can expect a vote to occur a few hours after the cloture vote.

In addition, the Senate may consider the Work Incentives conference report prior to the pending adjournment.

ADJOURNMENT UNTIL 10 A.M.  
TOMORROW

Mr. MURKOWSKI. If there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

Mr. FEINGOLD. Is there a unanimous consent request pending?

The PRESIDING OFFICER. There is, to adjourn.

Mr. FEINGOLD. Reserving the right to object, I ask unanimous consent

with regard to the cloture vote which the Senator from Alaska described, that the vote take place at 10 a.m. on Saturday; and that should cloture be invoked, no more than 21 hours of debate remain.

Mr. MURKOWSKI. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. FEINGOLD. Reserving the right to object, I simply want to indicate, as one member from the Wisconsin delegation, there is an effort to be reason-

able with respect to the hour of the vote and to limit our rights with respect to the 30 hours respectively. Our goal is certainly not to cause people to vote at a very extreme hour.

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 10 a.m., Friday, November 19, 1999.

Thereupon, the Senate, at 10:44 p.m., adjourned until Friday, November 19, 1999, at 10 a.m.